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REVOLUTIONARY JUSTICE

A Study of the Organization, Personnel, and Procedure of the Paris Tribunal, 1793-1795

By

JAMES LOGAN GODFREY

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JAMES LOGAN GODFREY

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FOREWORD

There is, perhaps, a certain temerity in taking up the vast and somber problem of the Paris Tribunal. The great mass of its records in the *Archives nationales,* the formidable list of books, articles, and documents encompassing its bibliography, and the depressing aspect of its handiwork as it mingled the most exalted and the humblest in the common dimensions of death all bespeak a rashness on the part of a new investigation. The best reply is by demurrer. The facts, while admitted, do not constitute sufficient grounds for leaving the Tribunal to slumber protected by the passage of time and many earlier works from the present proddings of the historian. Each generation formulates the questions that it would put; each generation must search afresh for the answers.

In the present work I have been most concerned with those questions that have seemed to loom largest in the inquisitiveness of our times. What sort of person made up the staff of the Tribunal? What relationship did they have with the personnel of other institutions of the revolution? What procedure was used by the Tribunal in the discharge of its responsibilities? Did the Tribunal's conception of its responsibilities remain entirely political or did it develop a view that its function was to participate in a social revolution? Here the Tribunal is accepted as an agency—and a necessary one—of the revolution; it has not been required that the Tribunal justify itself but the hope is held that it might here go some measure of the way in explaining itself.

Even within these modest proportions, this study could not have been completed without the aid of others. The acknowledgement of these acts of kindness is not the least of the pleasures that I have enjoyed in the preparation of this book. My indebtedness to Professor Mitchell B. Garrett and to Professor Louis Gottschalk is too vast for definition here. My bow to them is more than ceremonial; it expresses my gratitude for kind, subtle, and continuing influences. I am glad also to make my genuflexions in the direction of the American Council of Learned Societies and the Carnegie Research Fund from whence came a generosity that accords well with scholarly exercises, and to the Institute for Research in Social Science at the University of North Carolina for its provisions of an efficient young lady with a shiny typewriter. My own preference would be for a manuscript written with a goose quill but I have here deferred to the taste of others. Included also—and well within the range of my gratitude—are the editors of the Sprunt Publications in History and Political Science and the University of North Carolina Press; they have both exercised a degree of patience surpassing

the ordinary requirements of academic courtesy. If it can be accomplished from such a distance, I nod with gravity to the staffs of the *Archives nationales* and the *Bibliothèque nationale* whose helpfulness was unfailing and whose urbanity never betrayed the thought that research at times seeks the strangest of subjects. With my friend and colleague, Professor Alfred Engstrom, I exchange a knowing and grateful wink. I have kept the special place of honor at the very end to acknowledge the help of my wife. It was of that unfailing and unstinted sort that has seen through to the light of day so many books that otherwise might have succumbed to discouragement and despair.

JAMES L. GODFREY.

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REVOLUTIONARY JUSTICE

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CHAPTER I

THE LAWS CREATING AND MODIFYING THE TRIBUNAL

The history of revolutions is often concerned with the application of force as a technique of revolutionary change. The reasons for this seem quite clear. Revolutions are expressions of social vigor; the personalities brought to the top in these struggles often see in force a proper means for the achievement of the revolutionary end. Such movements, moreover, are characterized by the sharpness of the enmities created by personal antipathies and the incompatibilities of the contending revolutionary principles. Force becomes increasingly attractive and effective as the possibilities for compromise retreat before the advancing revolutionary spirit. The inadequacies of slow, non-violent modes of persuasion stand revealed as leaders try, at successive levels, to find some new center of gravity for the disrupted society. Unless such a center can be found and a tolerable degree of stability secured the leaders and principles at each level are crushed. In such circumstances force may well appear as an acceptable, even an inevitable, weapon in adjusting the mercurial relationships between innovations, extreme or moderate, and the traditional.

But the revolutionary society carries within itself an inconsistency. With all of its striving for the new, it retains a nostalgic reverence for the old; its innovations make strange marriages with the traditional. This intensity of conflict between the new and the old will, as a rule, be determined by two factors: the social breadth and depth of the revolutionary movement and the limitations of time in which the adjustments between new and old must be made. As the former increases, or as the latter diminishes, or both, the role of force in the revolutionary movement is likely to be enhanced. The application of force, however, will preferably take place under circumstances that show the tendency to blend the new with the old, the strange with the familiar, the reassuring with the disturbing—a revolutionary dichotomy that brings union of force with legality. Such a union would be considered today as an indispensable part of the revolutionary pattern. Perhaps the finest and certainly the most classical institutional example of such a union—the wedding of political expediency to judicial forms—is to be found in the Revolutionary Tribunal of Paris.

During the nineteenth century and until just prior to the First World War a number of volumes appeared in evaluation of the Tribunal and its work.[1] For the most part these volumes were expressions of horror.

[1] See M. De Proussinalle (P. J. A. Roussel), *Histoire secrète du tribunal révolutionnaire* (2 vols.; Paris, 1815); E. Campardon, *Histoire du tribunal révolutionnaire de Paris* (2 vols.; Paris, 1862); H. Wallon, *Histoire du tri-*

Viewed from the standpoint of nineteenth century liberalism and judged by those who placed great emphasis upon legalism as the surest safeguard of human liberties and rights, the operations of the Tribunal were of necessity in the nature of a shock. This reaction did credit to the sensibilities of those who studied and wrote, but indicated a failure to understand the essential nature of the movement they were describing and their inability, therefore, to appreciate the Tribunal as a necessary part of the revolutionary government. They looked upon and judged the Tribunal as a court of law and failed to see or, if they saw, to approve of its function as an instrument of force dedicated to the furtherance of national and party politics.[2] The temper of the mid-twentieth century has changed and it is now more possible to consider a revolution—especially one that now seems rather remote from the center of contemporary interest—as a complicated political phenomenon from which institutions may be extracted for rather detached analysis and description. Certainly recent experiences will have left little tendency to project any part of a revolutionary movement against a set of legal standards and principles that have much to be desired even in periods of greatest social stability. The present study, then, is an attempt to set forth certain salient features of the Tribunal and phases of its work in terms more detached and pragmatic than those formerly in vogue. In short, it is an effort to escape from the ethical and legalistic considerations naturally involved in the contemplation of the Tribunal as a court of law. Rather it tries to treat the Tribunal as an institution compromised within itself by the circumstances of its creation and the nature of the work which it was impelled to do. This study treats it as an administrative committee of a revolutionary government, shaped for the function of ridding that government of its enemies, but confusingly given the guise of a special court of law as a confession that even men who are disposing of enemies are likely to give some recognition to the accepted rituals.

The decrees of March 9, 10, and 11, 1793, establishing a *tribunal criminel extraordinaire*[3] came at one of the critical periods of revolutionary history. Military defeats suffered by Dumouriez and his lieutenants in the Low Countries had increased appreciably the fear and anxiety of France; the party warfare between the Jacobins and the Girondins was becoming more and more envenomed; and preparations had been made in Paris for a full-fledged insurrection that failed to de-

bunal révolutionnaire de Paris (6 vols. Paris, 1880-1882); G. Lenôtre, *The tribunal of the terror,* trans. Frederic Lees (Philadelphia, 1909); and E. Seligman, *La justice en France pendant la Révolution* (2 vols.; Paris, 1913).

[2] Seligman is aware of the principal point involved when he states: "Le tribunal révolutionnaire, dans son principe, a été une institution légitime et même nécessaire" (*La justice . . .*, II, 500).

[3] *Journal des débats et des décrets* (hereafter cited as *J.D.D.*), March 9, 1793, No. 172, p. 115. The name *tribunal révolutionnaire* was not given officially until October 29, 1793. For purposes of simplicity, however, the popular title "revolutionary tribunal" will be used throughout the text.

velop beyond the stage of riots.[4] On March 8, the National Convention approved a motion of Danton that *commissaires* of the Convention be sent to the forty-eight sections of Paris to inform them of the national danger.[5] Early the following morning reports were received from eight of the sections. Possibly three of these—the Halle-aux-Blés, the Observatoire, and the Louvre—demanded that the crisis be met by the creation of a revolutionary tribunal;[6] five others—Tuileries, Mont-Blanc, Sans-Culottes, Mil-sept-cent-quatre-vingt-douze, and the Panthéon—proclaimed patriotism and fervor without the specific request for a tribunal.[7] An immediate support of this rather feeble demand, by adherents of the Mountain, suggests that the Jacobin faction of the Convention was seeking some outside excuse for supporting the legislative establishment of a revolutionary tribunal. As a matter of fact the first demand for a revolutionary tribunal had occurred at the Jacobin Club

[4] The best treatment of the temper of Paris and the Convention from March 8 through March 11 will be found in Mortimer-Ternaux, *Histoire de la Terreur,* VI, (Paris, 1867), 171-244. It is his contention that the Jacobins "avaient résolu de remplacer les égorgements en masse par des meurtres juridiques, et le poignard des sicaires de la Commune par la guillotine en permanence" (p. 183). This plan was softened in application through the reluctance of the sections to support a ruthless program of the "glaive de la loi" (pp. 182-185). Wallon in his account (*Histoire du tribunal révolutionnaire de Paris,* I, 41-59) closely follows that of Mortimer-Ternaux.

[5] *J. D. D.,* March 8, 1793, No. 171, p. 103. The sections and the commissioners to each may be found in F. A. Aulard, *Recueil des actes du comité de salut public* (21 vols.: Paris, 1889-1923) II, 285-286.

[6] *Ibid.,* No. 172, p. 113. See also A. Tuetey, *Répertoire général des sources manuscrits de l'histoire de Paris pendant la Révolution française* (11 vols.: Paris, 1908) VIII, No. 219, and *Réimpression de l'ancien moniteur* (citations are made to the *réimpression*—hereafter cited as *Moniteur*—rather than to the original in recognition of the greater availability of the former), March 11, 1793, XV, 665. Mortimer-Ternaux (VI, 183, n. 1) states that four sections made the demand for a tribunal. There seems no justification for his inclusion of the section of the Faubourg Poissonière. Not all agree that the section of Halle-aux-Blés joined in the demand. See *Archives parlementaires, 1787-1860: recueil complet des débats des chambres françaises,* Series I, 1787-1799 (82 vols.; Paris, 1879-1913), LX, 2. (This compilation is hereafter cited as *A.P.*) This section, however, definitely prepared an address on March 9 demanding the establishment of a revolutionary tribunal (*Archives nationales,* C 250, No. 408. *Archives nationales* will hereafter be cited as *A.N.*). The official record of the session of the Convention of March 9, 1793, to be found in *ibid.,* C. 248, No. 369-70, does not mention Halle-aux-Blés. Perhaps the address was prepared but not delivered to the Convention. The record of the meetings in the sections is also of interest. On the evening of March 8, 1793, the section of the Louvre received the delegates of the Convention and expressed a willingness to hasten to the defense of the country, but it was persuaded "que les ennemis intérieures sont les plus dangereux" and instructed St. André and David to insist at the Convention upon the pressing establishment of "un tribunal sans appel." ("Extrait du procès verbal de l'assemblée générale et permanente de la section du Louvre." *ibid.,* C 250, No. 408). Les Halles demanded three things on March 9: the recall of all members of the privileged class from the army where they acted as traitors; the submission of the constitution to the people once the war was over; and the organization of "un tribunal révolutionnaire" ("Addresse de la Section des Halles," *ibid.*).

[7] *Ibid.*

almost a week before. On March 3, following a speech by Collot d' Herbois against the crimes of Roland, two of the most ardent Jacobins, Bentabole[8] and Desfieux, demanded the formation of a revolutionary tribunal to judge the former minister and his accomplices.[9] It is not unlikely that the introduction of this question in the Convention originated in the Jacobin Club and from there found a certain support in a few of the sections of Paris. In any case, on March 9, J. B. Carrier, an active Jacobin and future victim of the Tribunal, placed before the Convention the motion that it "decree the principle of the establishment of a revolutionary tribunal, and require the committee on legislation to report tomorrow upon the form of its organization."[10] After the briefest of discussions and a modification in the wording of the motion the Convention accepted the principle of a revolutionary tribunal.[11]

The impatience of the advocates of a tribunal and the stirring events engaging the attention of the Convention precluded the delay attendent upon the full report of a committee. On the evening of March 10, stimulated by the insistence of Danton,[12] the Convention hurriedly passed the decree providing for the establishment and organization of an "extraordinary criminal tribunal."[13] According to Bentabole, at the Jacobin Club on the evening of March 10, the Committee on Legislation through its *rapporteur,* Lesage, "whose aristocratic qualities are known to you," attempted to delay its report until March 11 but was forced to give the basic principles and these were converted into a number of articles of the decree. It seems quite clear that Bentabole

[8] Bentabole was the commissioner reporting the demand of the Observatoire for a revolutionary tribunal (P. J. B. Buchez and P. C. Roux-Lavergne, *Histoire parlementaire de la Révolution française* [40 vols.; Paris, 1834-1838], XXV, 18), although he had been sent to the section of the Gardes-Françaises (Aulard, *op. cit.,* II, 285).

[9] See A. Aulard, *La société des Jacobins* (6 vols.: Paris, 1889-1897), V, 63-65. Desfieux stated at that time: "Il faut faire des lois conformes aux circonstances, sauf à les modifier en temps de paix." On March 6, this demand was repeated when Desfieux urged the Club to welcome the good news of the rallying of the French army in Belgium by establishing a revolutionary tribunal (*ibid.,* 67).

[10] *Moniteur,* March 11, XV, 665. See also *J.D.D.,* March 9, 1793, No. 172, p. 114. The same evening at the Jacobin Club, Thirion offered congratulations on the good decrees of the day and felicitated the Club on its important contribution in securing the acceptance of the principle of a revolutionary tribunal (Aulard, *Jacobins,* V, 79).

[11] An account of this may be found in *A.N.,* C248, Nos. 369-70.

[12] *Moniteur,* March 13, 1793, XV, p. 683.

[13] In the debate of March 10, which clearly reflected the fears and disorganization of the Convention, two men proposed "projects" for the guidance of the Convention's deliberations. Lesage, a member of the Committee on Legislation, suggested a tribunal that would use on the bench judges of the existing criminal tribunals; Lindet, an enemy of the Girondins and member of the future Committee of Public Safety, proposed a larger and more active tribunal, acting upon indictments furnished by the Convention against individuals who threatened the security of the nation. This more virulent tribunal was preferred although the final decree did not reflect too closely Lindet's organizational preferences. For the two plans see *ibid.,* p. 681.

ready had a glimpse of the usefulness of a tribunal in the political ruggles of the moment.[14] In view of the haste, it is not surprising, at the legislative provisions were not completed until March 11.[15]

This initial decree remained the core of the institutional organization the Tribunal throughout its entire history. Upon this legislative ndation, however, several alterations were made that affected the irit and the speed of the procedure. There were several increases de in the personnel of the Tribunal and at one point it was authorized form itself into four sections. These changes divided the life of the ribunal into five distinct phases and provide a chronological outline for analysis of legislation pertaining to the Tribunal.

The hurried act of March 10-11, in addition to being the basic gislation for the Tribunal, determined the character of the new instru- ent of the revolution from its establishment through September 5, 1793. his period of about five months constituted the first phase of the history the Tribunal. The first article of the law, a compromise among three ggested statements of purpose advanced by Robespierre, Lindet, and huriot,[16] contained a statement of institutional objective of continuing alue:

> An extraordinary criminal tribunal shall be established at Paris which shall have cognizance of all counter-revolutionary activities, of all attacks against the liberty, the equality, the unity, the indivisibility of the Republic, the internal and external security of the state, and of all plots tending to reestablish the monarchy or to establish any other authority inimical to the liberty, equality or sovereignty of the people, regardless of whether the culprits should be employees of the government, military personnel, or plain citizens.[17]

Throughout the entire course of the Tribunal's participation in the Terror, this provision remained the fundamental statement of the Tribunal's jurisdiction.

The remaining fourteen articles of section I of the act of March 10-11 provided for the personnel and procedure of the Tribunal. From the standpoint of structure the Convention duplicated that which had but recently been given to the criminal courts,[18] with the significant excep-

[14] Aulard, *Jacobins,* V, 81.

[15] *J.D.D.,* March 10-11, 1793, No. 174 pp. 135-137. Bouchez et Roux, *op. cit.,* 59-61 and the *Moniteur,* XV, 676 (March 12, 1793) all report these transactions as though the decree was passed in its final form on the evening of March 10. *A.P.* (LX, 95-96) gives March 11 as the date of the definitive law. Articles 12 and 13 do not appear in the decisions of the evening of March 10 (*ibid.,* pp. 65-70).

[16] *Courrier universel,* March 12, 1793, p. 2.

[17] *Moniteur,* March 12, 1793, XV, 676.

[18] Seligman, *op. cit.,* I, chaps. VI and X.

tion that for the new Tribunal, with its highly important political function, the court personnel would be selected by the Convention and not left to popular election.

The Tribunal was to have a bench of five judges, a jury of twelve, and a public prosecutor.[19] The members of the bench were to be elected by a plurality vote of the Convention with the requirement that no individual who had received less than one-fourth of the votes cast could be declared elected. The question of the jury aroused diverse attitudes and a clash of opinion in the Convention. Robert Lindet, during the session of March 10, did not mention the use of the jury in his proposals for a revolutionary tribunal.[20] Those of Lesage called for a jury and stipulated that the jurors should be named by the departments.[21] The Lindet proposals received the greater attention and the omission of the jury immediately raised the possibility that the proposed tribunal might exercise a judicial tyranny. The inclusion of the jury as a part of the tribunal was demanded by Cambon, Barère, Billaud-Varrennes, Fonfrède, and Thureau as a protection for true patriots.[22] The use of the jury was approved with the further requirement that its members should be named by the Convention and selected from all of the departments of France.[23] The decree of March 10-11, accordingly, provided for a jury of twelve, with four substitutes, to be elected by the Convention from the department of Paris and the four neighboring departments. This jury with its concentration in the metropolitan region was a concession to speed and was to be replaced on May 1 by a jury selected from all of the departments.[24]

What was to become the most important office of the new Tribunal was treated most summarily. The Convention, in keeping with its responsibilty for supplying judges and jurors, was to select the public prosecutor (*accusateur public*) and two assistants.[25] There had been nothing in the debates to indicate any forebodings concerning the potentialities of this office. It is quite likely that haste precluded cautious consideration, or perhaps the members of the Convention saw in the jury the safe-guard of "patriots" and the prevention of any degree of judicial dictatorship.

[19] *Moniteur,* March 12, 1793, XV, 676.

[20] Buchez et Roux, XXV, 50. The *projet* of Lindet reveals the extreme ideas of some members of the Convention concerning the tribunal. It was not to be bound by any legal forms but was to secure "la conviction par tous les moyens possible."

[21] *Moniteur,* March 13, XV, 681.

[22] *Ibid.,* 682. The short arguments advanced for the use of the jury bear a striking resemblance to the earlier arguments when the use of the jury in the recently reformed court system was under debate. See Seligman, *op. cit.,* I, chap. X.

[23] Buchez et Roux, XXV, 55.

[24] *Moniteur,* March 12, 1793, XV, 676.

[25] *Ibid.*

In addition to the skeleton organization of personnel, the decree outlined the proper method for the initiation of legal action against an accused. On August 11, 1792, the operation of the *police de sûreté générale*[26] had been placed under the jurisdiction of the municipalities and administrative bodies.[27] These police authorities were now to extend their responsibilities to include the activities coming within the definition of counter-revolutionary activities set forth in Article I of the law of March 11.[28] To make it possible for the Convention to exercise close supervision over the activities of the Tribunal, copies of all *procès verbaux* of accusations and arrests were to be sent by the administrative bodies of the departments, the districts, and the municipalities to the Convention for reference to a commission of six of its members.[29] This Commission of Six was to be fully responsible to the Convention for an examination of all of the evidence submitted to it, for the preparation of the formal charges against the accused soon to face the Tribunal, for supervision of the various stages of the trial, and for the maintenance of proper records for all of the cases sent to the Tribunal.[30] These requirements indicate a hesitancy to give too much independence to the new Tribunal; at the same time it seems clear that the Convention had either the time nor inclination to think through the problem of the moment for the Commission was discharged before the Tribunal began the consideration of its first case.[31]

The penalties to be imposed upon those found guilty of counter-revolutionary acts described in Article I of the decree of March 10-11 were authorized by section II of the same decree. Its three articles empowered the judges to apply the penalties of the *Code pénal*[32] or of subsequent laws. The jurisdiction of the new Tribunal precluded the necessity for sending the accused before the police tribunals even though the charge fell within the purview of these courts.[33] The Revolutionary Tribunal was further charged with the duty of declaring forfeit to the

[26] *A.P.*, XXXI, 642-643. This is seemingly a reference to the *police de sûreté*, a combination of justices of the peaces and officers of the *gendarmerie nationale*.

[27] *Ibid.*, XLVIII, 37-38. This act placed the responsibility for prosecution of the crimes which compromised the internal or external security of the nation in the hands of the administrative authorities of the departments, the districts, and the municipalities.

[28] *Moniteur*, March 12, 1793, XV, 676.

[29] *Ibid.*

[30] *Ibid.*

[31] See *infra*, pp. 11, 14-15.

[32] The *Code pénal* had been drawn up as a part of the general reform of the criminal courts. In keeping with the new ideas on penology, a schedule of penalties was prepared in which an attempt was made to "make the punishment fit the crime." The parts of the Code of concern to the Revolutionary Tribunal were the first section of the first part—crimes against the external security of the state—and the second section of the first part—crimes against the internal security of the state (*Moniteur*, June 8, 1791, VIII, 605, 608).

[33] *Ibid.*, March 12, 1793, XV, 676, Section II, article i.

Republic the property of all those receiving the death sentence.[34] In cases of *incivisme* involving public disturbances or agitation where no penalty was prescribed by law, the Tribunal was to use the sentence of deportation.[35]

In so far as its legislative aspects were concerned, the establishment of the Revolutionary Tribunal had required but portions of two days of the Convention's time. The decree passed was of minimum length; subsequent legislation and the experiences with procedure and actual case work—a natural part of any institutional development—were to supply the many deficiencies. Although it was at no time definitely expressed, it was undoubtedly the belief of most of its creators that the Tribunal should follow the general rules of criminal procedure now in use by the recently activated criminal tribunals of the departments—a belief which the Tribunal itself shared during the first few months of its operation. But some men—Duhem,[36] an ardent Jacobin, was a good example—did not wish a tribunal in which the accused would enjoy the safeguards of the recently adopted criminal procedure; others, like Danton,[37] feared that the nature of a tribunal's work would force its supporters to condone evils which they would have preferred to avoid. Several of the Girondins[38]—who as events developed had much to fear from the operations of a tribunal—realized the political potentialities of the new institution, but could not be certain that the course of the revoluton would convert it into an instrument of political warfare and turn it against themselves. There was little in the institutional form of the Tribunal that could have excited alarm. Such forms are frequently neutral and gain capacities for good or evil under the stimuli of events and personalities. Such fear as existed on March 9 and 10 came almost entirely from the political circumstances of the moment. It is rather doubtful that anyone at the moment had a clear premonition of the expansive role of the Tribunal in future events or could foresee the great potentialities for fanaticisms to be found in some of its personnel quickly in the process of selection.

Having provided the Tribunal, the Convention hastened to select its staff and on March 13 the results of the election were announced.[39] Even when allowance is made for the number of deputies absent on missions in the departments, the vote in the Convention (377 voting out of 749 members) was surprisingly small.[40] Some deputies were un-

[34] *Ibid.*, article ii. The provision later led to charges that the Tribunal was venal.
[35] *Ibid.*, article iii.
[36] Bouchez et Roux, XXV, 52.
[37] *Ibid.*, p. 56.
[38] *Ibid.*, p. 50 (Buzot); p. 52 (Vergniaud).
[39] *Infra*, chap. II.
[40] The entire list of nominees with the total vote received by each individual is given in *A.P.*, LX, 176-177.

doubtedly deterred from voting by their lack of familiarity with available candidates, while others refrained from voting as a silent protest against the inauguration of the Tribunal. There could be no certainty that those elected would accept office until notifications were sent out; in the meanwhile the Convention had yet to form its Commission of Six, which in accordance with Section I, article X of the recent decree was to be responsible to the Convention for oversight of the Tribunal.

This omission was remedied on March 15 by the election of Garran-Coulon, Revellière-Lepaux, Rabaut-Saint-Étienne, Delaunay, *le jeune*, Gomer, and Bréard.[41] These men were all candidates advanced by the Girondin faction of the Convention;[42] the six candidates representing the Jacobin preference were certified as substitutes. The immediate resignation of Bréard, however, made way for the admission of Prieur (de la Marne), the leading substitute, and gave to the Jacobins one place on the Commission of Six. The Girondins had obviously seen that control of the Commission would go far toward control of the Tribunal and had put forth a concerted effort to capture this vantage point. Their success was an indication that at this time the Girondins possessed a voting majority in the Convention when public pressure did not throw the vote of the Center toward the Jacobin left. The Girondin control of the Commission and lack of consistent control of the Convention undoubtedly led to the suppression of the Commission before the Tribunal could get its first case under way.[43]

March 18, 19, and 20 saw the final steps in summoning the personnel

[41] *Ibid.*, p. 244.

[42] Wallon, *op. cit.*, I, 66.

[43] The preparation of cases by the Commission can be reviewed by reference to an "État des pièces remises au ministre de la justice par la commission des six, et renvoyés au tribunal criminel extraordinaire" in *A.N.* BB^{3}926. The facts of the suppression are not without interest. On March 27, a deputation from the section of the Tuileries appeared before the Jacobins and complained that although the Revolutionary Tribunal had been authorized for fifteen days "aucune tête de conspirateur n'est encore tombée sous le glaive de la loi" (Aulard, *Jacobins*, V, 108-109). This protest was circulated to the other forty-seven sections and some twenty associated themselves with it (*A.N.*, C250, No. 413). On March 28, the protest was lodged with the Convention where it could scarcely have avoided being considered as an indictment of the Commission of Six. This campaign was strengthened when, on March 31, the newly installed public prosecutor, Fouquier-Tinville, urged the Jacobin Club to press the Commission to send to the Tribunal such evidence as it had so that the trial and judgment of the traitors might begin (Aulard, *op. cit.*, 117-118). The climax came two days later, April 2, when the judges and jurors of the Tribunal appeared at the bar of the Convention to complain of the inactivity in which the Commission had left them. The Commission was then suppressed on a motion by Marat who claimed that rumor contended that the original purpose of the Commission had been the "paralysis" of the Tribunal. It may be said for the Commission that while slow of pace it had not been entirely idle. It had taken a part in finding suitable quarters for the Tribunal (see President of the Commission of Six to Garat, Minister of Justice, March 18, 1793, *A.N.* Fic III, Seine 27) and begun the preparation of fourteen cases no one of which, however, had yet been sent to the Tribunal (see de Proussinalle, *Histoire secrète* . . . I, 118, footnote 1).

to their posts on the new Tribunal.[44] On the last date a circular letter was sent from the Minister of Justice, Gohier, to the judges and jurors urging them to repair to their places lest delay cause some injury to the public good.[45] A list of forty names had been certified to the Minister for this circular. Some delay was caused by failure to indicate in each case the address of the prospective judge or juror,[46] but by March 28 notification of election and invitation to serve had been sent to all but two,[47] and many had already replied. Of these five of eight prospective judges and nine of nineteen prospective jurors declined to serve. Nor was a more favorable reception given the notification by those chosen for the office of the public prosecutor; here the three assistants accepted while the principals refused to serve.[48]

An analysis of the refusal reveals that health, ability, present occupation, and the infirmities of age were given as the determining factors in the decision not to accept places on the Tribunal. It is quite possible that two other considerations were influential. One of these was the fear of injury or reprisal. Dumont, one of the accepting jurors, pointed out that the "troubled circumstances" of the country and the necessity of voting publicly in cases involving powerful conspirators would lead to danger.[49] This may not have been completely absent from the considerations of some who refused. Even more certain was the fear that the appointment to the Tribunal—and the Tribunal, itself, for that matter—would be of short duration. The example of the Tribunal of August 17, 1792, was a constant reminder for those who contemplated leaving present offices and emoluments. In an effort to reduce the influence of this deterrent, the National Convention on March 27—well after a number of refusals had been received—declared that all those called to the service of the new Tribunal as judge, prosecutor, or juror re-

[44] *Infra.* The problem of personnel will be treated in some detail in Chapter II.

[45] *A.N.* BB[30] 25. A summary of this particular letter, and of a number of others, may be found in Tuetey. In this instance reference should be made to Vol. VIII, No. 1524.

[46] Minister of Justice to the President of the National Convention, 21 March, 1793. *A.N.* BB[30] 25. Also see *A.P.*, LX, 434-444.

[47] Same to same, March 28, 1793, *ibid.* By this time the Minister of Justice still did not know the addresses of Tartanac, a judge, and Chaneloup, a substitute juror. Lenôtre (*op. cit.*, p. 47) contends that notices were not sent out until March 25. The circular letter of March 20 must have reached most of those to be informed for replies began on March 21 and by March 25 at least eighteen replies had been composed.

[48] These acceptances and refusals may be found in *A.N.*, BB[30]25 and in C250, No. 412; of the letters that of Fournier, on March 22, 1793, was sent to the President of the National Convention and refused the office of juror while all others wrote to the Minister of Justice. Summaries may be found in Tuetey, VIII, Nos. 1532-44, 1549-56, 1559, 1563, 1566, 1576-77, and 1581. The presence of Rousillon at the formation of the Tribunal indicates that a few may have accepted service without a letter. See *infra*, p. 27, n. 5

[49] M. Dumont to the Minister of Justice, March 26, 1793, *A.N.*, BB[30]25. Dumont hastened to point out that the element of risk made it impossible for a true patriot to refuse the post.

served the privilege of returning to their former positions at the expiration of their Tribunal appointments.[50] It is interesting that Fouquier-Tinville, who had at one time served on the Tribunal of August 17, did not accept his new post as assistant prosecutor until March 29, and in his letter of acceptance frankly underlined the Convention's guarantee of two days earlier by reserving for himself the right to return to his position as assistant public prosecutor to the criminal tribunal of the department of Paris.[51]

The slowness in securing the personnel of the Tribunal had been in large measure responsible for the tardiness of its organization and had given the opportunity for the protests of March 27 that led, as we have seen, to the suppression of the Commission of Six.[52] The Convention, in large part undoubtedly sympathetic with this impatience, decreed on March 28 that the Tribunal be put in immediate operation. To obviate the embarrassment arising from the shortage of jurors the Tribunal was authorized to use a jury of ten[53]—the number that had accepted office by March 27.

There was reason for haste. One accused, Fontenay, commandant of the National Guard of Valenciennes, had already announced by letter his presence in Paris where he awaited the consideration of the Tribunal.[54] This embarrassment was temporarily surmounted by instructing the Commission of Six, on March 27, to hold Fontenay in the prison of the Abbaye and to take charge of all of the evidence in his case.[55] Additional accusations were to be expected, for on the same day article VIII of the Act of March 10-11 was amended to make the criminal tribunals in each of the departments equally responsible with the local administrative groups for sending information, lists of witnesses and evidence to the National Convention in cases which seemed to fall within the jurisdiction of the new Tribunal. The Convention reserved for itself the right of deciding whether or not these cases should then be referred to the Revolutionary Tribunal.[56]

The Convention's decree of March 28 demanding the immediate organization of the Tribunal was quickly followed by a circular letter of Gohier, Minister of Justice, announcing a meeting for six o'clock of the same evening for all personnel of the Tribunal present in Paris.[57]

[50] *A.P.*, LX, 610-611.

[51] Fouquier-Tinville to the Minister of Justice, March 29, 1793, *A.N.*, BB^{30}25. See also Tuetey, VIII, No. 1581.

[52] *Supra*, p. 11.

[53] *A.P.*, LX, 642. Gohier in a letter of March 28 to the President of the Convention stated that enough judges had accepted to form the bench but only ten jurors were available. If the Convention could remedy that difficulty the Tribunal could be active within twenty-four hours. See *A.N.*, BB^{30}25.

[54] *A.P.*, LX, 584.

[55] *Ibid.*, 615. He was liberated on May 10 by a decree of the Convention (*ibid.*, LXIV, 411).

[56] *Ibid.*, LX, 611.

[57] *A.N.*, BB^{30}25.

By the following day a hasty organization had been formed and the oath of office administered to the hastily assembled and incomplete personnel. On that same day a letter from Gohier was read to the Convention informing it that the municipality of Paris had installed the Tribunal during that same evening.[58]

In accordance with the authorization of article xv of the decree of March 10-11, the judges who had just taken the oath of office elected N. J. Fabricius, a friend of Danton, as *greffier*.[59] In keeping with article iii of the decree of March 27,[60] Tirart, Desquainier, Boucher, and J. N. Tavernier were selected as *huissiers;* and P. Delatre and Briquet as *garçons*. Seemingly without authorization from the Convention was the appointment as printer of Nicolas,[61] who was later to become juror as well as printer. At the same time Laubry, Naury, and Souberbielle were named as physician and surgeons to the Tribunal.[62]

The jurors were not required to take an oath at this time and their names do not appear with this particular group. To avoid any difficulty concerning the eligibility of the jurors then present in Paris—questions could have arisen on the requirement that they be drawn from five designated departments—the Convention on March 30 confirmed the jurors for Tribunal service without regard for place of residence.[63] By the end of March—and some three weeks following the initial legislation—the Tribunal was organized for the inauguration of its career as an institution of the revolution. But several changes were to be made—principally involving the relationships of the Convention and the Tribunal—before the first case could begin on April 6.

The suppression of the Commission of Six, which has received some earlier mention,[64] here needs a more extended comment. On April 2, when the question of Dumouriez's treason occupied every attention and as the Convention hesitated on the verge of creating the great Committee of Public Safety, a committee representing the Tribunal visited the Convention to complain against the failure to provide cases for its consideration, a failure which was preventing the zealous personnel of the new court from applying "toute la sévérité des lois contre les ennemis da la chose publique."[65] This was the signal for an attack by the Jacobins Albitte, Osselin, Carrier, and Marat against the

[58] *Moniteur,* March 31, XV, 839.
[59] Montané to Gohier, March 29, 1793. *A.N.*, BB^{30}25.
[60] *A.P.*, LX, 611.
[61] It is interesting that Nicolas was also printer of the *Journal de la Montagne* (Aulard, *Jacobins,* V, 252).
[62] The list of persons installed is given in Tuetey, Vol. VIII, No. 1585. The official record is to be found in *A.N.*, W502. The list was not complete on March 29 and Gohier's letters to members of the Tribunal already in Paris gives a list of those who had not replied to the original invitation to serve (*ibid.*, BB^{30}25). This problem will be expanded in Chapter II.
[63] *A.P.*, LX, 702.
[64] See *supra* p. 11.
[65] *A.P.*, LXI, 93.

Commission of Six and a reasonable, though uninspiring response by that body, through Rabaut-Saint-Étienne, that it was doing all permitted by the pressure of time and the demands of correct procedure. The opinion of the Convention was seemingly expressed by Albitte *l'aîné,* who had anticipated the defense made by the Commission, in the statement that "when it is a matter of judging conspirators, there are no forms to follow."[66] Garron-Coulon and Lanjuinais came to the aid of Rabaut-Saint-Étienne but the defense was timid and half-hearted and the Convention voted the abolition of the Commission.[67] The Girondins, some of whom recognized the necessity for a Tribunal, were guilty of a tragic mistake in not provoking a major parliamentary battle for the preservation of the Commission which they controlled and which in turn controlled the future of the Tribunal. With the elimination of the Commission the influence of the Girondins over the Tribunal was greatly reduced. Their dereliction is difficult to explain unless it was the result of political weariness combined wih an inner conviction, felt by some, that if the Tribunal were a necessity the Commission of Six represented an impossible drag upon its effective operation.

This act of suppression led to a vigorous debate on April 5 on the subject of whether the Convention or the Tribunal should fill the gap left by the recent Commission. Charlier and Danton, both Jacobins, were in favor of vesting the power to bring the accused before the Tribunal in its office of public prosecutor. The Girondins Barbaroux, Boyer-Fonfrède, and Cambon were fearful of such a power and contrived to persuade the Convention that to allocate such a power to any one man would bring not only many of the national and local officials into personal jeopardy but might also involve members of the Convention itself in the danger of an arrest that might prove both arbitrary and prolonged.[68] The result was a compromise. The Convention decreed that the public prosecutor was authorized to have arrested and tried all persons suspected of conspiracy or counter-revolutionary activities upon the denunciation of constituted authorities or of private citizens. No member of the Convention, no minister, and no general was to be arrested, however, without a formal charge by the Convention.[69] This new and limited power of the public prosecutor was placed in full motion the following day by an order that all documentary evidence sent to the Minister of Justice or to the Convention was to be turned over, without delay, to the public prosecutor.[70]

On this day (April 6), also, the Tribunal began its first trial.[71] This opening and the preceding debates in the Convention had their repercus-

[66] *Ibid.*
[67] The fullest account of this is in *A.P.,* LXI, 93-95.
[68] *Ibid.,* pp. 334-337.
[69] *Ibid.,* p. 337; Tuetey, VII, No. 1598.
[70] *A.P.,* LXI, 372-373.
[71] *Bulletin de la Tribunal Révolutionnaire* (Paris, n.d.), No. 1, April 6, 1793.

sions at the Jacobin Club. There on April 7 it was demanded that the Tribunal serve the nation with a dozen heads a day rather than one. On the following day, a rapid inflation of terrorism was expressed with the assertion that it was necessary to sacrifice 100,000 heads to save 24,000,000. The Tribunal, with its limited powers, needed the support of the Club; this was especially true in the matter of the reservation that deputies could not be taken before the Tribunal without a formal charge by the Convention.[72] Amidst such political passion and with such an inauspicious beginning it is not surprising that the Tribunal continued to be the object of legislation. Among the subjects for legislation the numerous refusals from those originally nominated for Tribunal service created a chronic problem.

The Minister of Justice, Gohier, was from the first attempting to secure from the Convention authorization for the addition of jurors and judges to bring the Tribunal up to its anticipated strength.[73] The problem of the jury was destined from the beginning to plague the Convention as the first authorization for the jury from Paris and the four neighboring departments was legally effective only until May 1. By April 29, the Convention was forced to prolong the life of the existing jury until June 1, and the Committee on Legislation was entrusted with the problem of suggesting some plan that would secure the cooperation of the departments in selecting a replacement jury in keeping with the provisions of the law of March 10-11.[74]

The report of this Committee was made on May 24. Since the twelve jurors and their four substitutes obviously could not come at the same time from each of the eighty-five departments, it was decided to draw by lot the names of sixteen departments. A list of prospective jurors from each of the departments so selected was then to be prepared and printed for circulation in the Convention. In the voting the leading candidate from each department would be declared elected to the jury for a term of one month. In the next elections the sixteen departments first drawn would not be reeligible until the remaining departments had each an opportunity to contribute its juror.[75] The first drawing was made on May 27, and on June 8 the twelve jurors and four substitutes were announced.[76] On June 13 it was found advisable

[72] "Si vous ne faites pas décréter que le tribunal révolutionnaire pourra arrêter et guillotiner les députés et tous les autres fonctionnaires, je dis que la contre-révolution est faite" (Aulard, *Jacobins*, V, 129-130). A view on the other side came somewhat later—June 13, 1793—from Bordeaux where the popular commission of public safety of the department of the Gironde issued a searing indictment of the location, personnel, and judgments of the Tribunal. (*A.N.*, BB^{30}25).

[73] Gohier to President of Convention, April 3, 1793. *A.N.*, BB^{30}25.

[74] *A.N.*, W507; *A.P.*, LXXIII, 558-561; Tuetey, VIII, No. 1608; and *J.D.D.*, No. 244, p. 452.

[75] *Ibid.*, (May 24, 1793) No. 249, pp. 341-342; Tuetey, VIII, No. 1615; *A.P.*, LXV, pp. 265-266; and *A.N.*, W508.

[76] *Ibid.*; *A.P.*, LXVI, 171; and Tuetey, VIII, No. 1621.

in view of the distance that some of the jurors would have to come to postpone relief for the original jury until July 1.[77] Despite the new postponement, some of the new jurors began to arrive in Paris and on June 26 the Tribunal was authorized to fill from these any vacancy in the old jury arising from illness or resignation.[78]

The Convention had experienced similar difficulties in providing the Tribunal with judges. Of the original list of ten, four had finally accepted and were permitted to open the first sessions of the Tribunal since judgments could be given by a concurrence of three. The action of the Convention in the selection of the new jury prompted J. B. M. Montané, the President of the Tribunal, to request that the Convention also expedite the work of the Tribunal by bringing the bench of judges up to the strength specified in the law of March 10-11.[79]

Although this request was granted and some change occurred in the personnel of the bench, there was apparently no increase in numbers. We find Fouquier-Tinville writing to the Convention on July 19 that the Tribunal had never had the services of more than four judges and for a time early in June had been reduced to three. At the time of the letter four were again in service, but the efficiency of the Tribunal demanded that this number be increased to eight. This would permit five judges to conduct the formal trials while three were available to preside over preliminary hearings.[80] This proposal was sent to the Committee on Legislation with the additional suggestion that it consider the possibility of dividing the Tribunal into two sections. The Committee secured a bench of seven judges on July 24 but nothing was then said of two sections.[81] On July 30 through its spokesman, Prieur, the Committee of Public Safety placed its weight behind the proposal for two sections. The support was entirely effective; the Convention agreed to the establishment of a second section identical in every way with the first and ordered that both sections be brought to full strength.[82] Almost immediately, however, the legislation was somewhat weakened by the Convention's decision to make the creation of two sections permissive rather than mandatory. Enough personnel was to be provided for two sections but the actual division was not to take place until demanded by the work of the Tribunal.[83] This would involve two benches of five judges each

[77] *A.N.*, W508; *A.P.*, LXVI, 465. There is some confusion about the extensions of time for the original jury. It was evident from the fact that the new jurors were not announced until June 8 that the postponement of change for the original jury to June 1 must have been extended. As a matter of fact article v of the law determining the mode for selecting the replacements speaks of the date for the relief of the original jury as June 15. *Moniteur*, May 26, 1793, XVI, 472.

[78] *A.N.*, W508; *A.P.*, LXVII, 509.

[79] Montané to the Convention, May 25, 1793, *A.P.*, LXV, 334.

[80] *Ibid.*, LXIX, 186.

[81] *Moniteur*, July 25, 1793, XVII, 210.

[82] *Ibid.*, August 1, 1793, XVII, 276.

[83] *Ibid.*, p. 277.

and would require the election of seven additional judges.[84] The number on the present bench had just been reduced from four to three by the indictment of Montané, the president, on the charge that he had altered the records and been suspiciously favorable to Charlotte Corday, assassin of Marat, and had erased certain portions of the sentence in the condemnation of the "assassins" of Leonard Bourdon.[85] As the number of jurors must now be increased to thirty, the Minister of Justice was requested to give the Committee on Decrees a list of the jurors actually in service in order that the number of vacancies might be determined. This list revealed that twenty jurors were at the moment attached to the Tribunal.[86] Interestingly enough, the list also revealed, despite the requirement of the law that the jury be renewed, that eight of the twenty were from the original ten to accept jury service, and that out of the twelve jurors and four substitutes who had been elected for service beginning July 1 only nine were at the Tribunal.[87] It was necessary then to name ten new jurors to bring the total up to thirty.

Although the new judges were selected, evidently nothing was done to secure additional jurors, for on August 18, the Convention authorized the Tribunal to take by lot jurors from the list of two hundred maintained by the criminal court of the department of Paris. In requesting this concession Fouquier-Tinville stated that ten jurors were engaged in the trial of General Custine and that only six were available for service in another trial that would involve thirty citizens of Rouen and about two hundred witnesses.[88] It is quite clear that the early personnel of the Tribunal was subject to rapid and unpredictable fluctuations and easy to see that the long-service, "professional" juror was the easiest solution of the problem of keeping the Tribunal staffed.

As in March the Tribunal had been created against a background of popular disorder and in the atmosphere of crisis, so in September it entered its second phase as an extremist faction, the *Enragés,* conducted a noisy and threatening agitation for a "revolutionary" army, payment of patriots for attending the section meetings, the search of houses, and a quicker justice for traitors. At the Jacobin Club, Robespierre, as early as August 11, complained of the slowness of the Tribunal and accused it of adopting the languid pace of the pre-revolutionary *parlements.* A running fight on the formalism and deliberateness of the Tribunal was maintained and by the first part of September Desfieux was insisting that a single tribunal was not enough to judge 1600 persons awaiting trial and claiming that ten to twelve tribunals, judging without formalities,

[84] *A.P.,* LXX, 179-180. Three substitutes were also elected.

[85] *Moniteur,* August 1, 1793, XVII, 276. This reprints Fouquier-Tinville's letter, July 29, to the Committee of Public Safety in which he brings the "counter-revolutionary" activities of Montané to the attention of the Committee.

[86] *A.P.,* LXX, 186.

[87] *Ibid.,* LXVI, 171.

[88] *A.N.,* W508; *A.P.,* LXII, 385-386.

were needed.[89] In keeping with a part of these demands the Tribunal was again divided by act of the Convention. As we have seen the Tribunal already possessed the permission of the Convention to form itself into two sections when the pressure of cases made such a division desirable; so far the lack of available jurors had made the utilization of this authority difficult.[90] In view of the prolonged difficulty with reluctant jurors the proposal by Thuriot on September 4 that the Tribunal be split into four sections seemed unduly optimistic.[91] The Convention referred this proposal to the Committee on Legislation and on the following day Merlin (de Douai) made a report favorable to the principle of division.[92] The appropriate legislation was passed in a decree of fifteen articles.[93]

This act of September 5 expanded the number of judges to sixteen, the number of jurors to sixty, and increased the staff of the public prosecutor. There was to be no distinction amongst the sections as to authority or privilege, and the fortunes of lot, with due consideration for the pressure of work and trials already under way, was to determine which section would sit as the cases arose. The judges, jurors, and officers would be interchangeable and the practice of substitution permitted. The final article provided for elections on the following day (September 6) to bring the Tribunal to its newly prescribed strength.

The division into four sections proved to be too generous a concession to popular demand; on September 11 the Convention received from Fouquier-Tinville the opinion that it would be impossible to keep four sections in constant activity in the manner that was clearly intended by the Convention.[94] Four sections could be used to advantage, however, if two were permitted to hold the daily trials while the other two prepared the cases for hearing. The sections could alternate in this dual function month by month. The public prosecutor defended this plan by the contention that, although the prisons of Paris were crowded,[95] many of the accused could not be brought to immediate trial. In these cases witnesses could not be summoned and heard, or the originals of indispensable documents were lacking. Even where these difficulties did not exist, previous experience had brought the public prosecutor to the opinion that the assignment of fifteen jurors to a section would not

[89] Aulard, *Jacobins,* V, 341, 376-78, 385, 386. The coming reorganization was not entirely satisfactory and the criticism continued. On October 28, Chaumette complained that "Le tribunal révolutionnaire est devenu un tribunal ordinaire; il juge les conspirateurs comme il jugerait un voleur de portefeuille." *Ibid.,* 481.

[90] Fouquier-Tinville in a *mémoire* to the Convention stated that on Saturday, September 7, it had been impossible to secure the legal minimum of ten jurors. *A.P.,* LXXIII, 705.

[91] *Ibid.,* 392; *J.D.D.,* No. 351, p. 51.

[92] *Moniteur,* September 6, 1793, XVII, 575.

[93] *Ibid., A.P.,* LXXIII, 405-406; *J.D.D.,* No. 352, p. 66.

[94] *Mémoire* of Fouquier-Tinville, September 10, 1793, *A.N.,* DIII267-268. This is also found in *A.P.,* LXXIII, 705-706.

[95] The number detained in the prisons of Paris had increased from 1,350 on June 18, 1793 to 1,905 on September 11. *A.P.,* LXVII, 13; LXXIV, 1.

assure the necessary minimum of ten; there would be frequent delays and embarrassment. Since (as we shall see) in perhaps the majority of instances the most important part of the trial was the preliminary hearing and the preparation of the documents—two steps that became increasingly significant—there is no doubt that Fouquier-Tinville was well advised in the recommendation which he made to the Convention for the best use of the increased facilities of the Tribunal.

On September 26 the list of persons to be added to the Tribunal was presented by the Committees of Public Safety and General Security to the Convention.[96] Four of the judges refused the proffered appointments, and on October 27 the Committee of Public Safety was authorized to replace them, or any others who resigned, in the shortest possible time.[97] Two days later a significant change in title was made. In keeping with the major reforms in structure and organization, and no doubt as a concession to the popular name it had always borne, the *tribunal criminel extraordinaire* became officially the *tribunal révolutionnaire*.[98] Billaud-Varenne, who proposed the change, was of the opinion that those who had favored the original name had done so in an effort to tie the Tribunal with the bonds of legal formalities; it now had the name "qu'il doit avoir."[99]

The Tribunal had already received a dignity to go with its new name. The Convention had decided on September 16, in response to a request by Fouquier-Tinville, that the Tribunal should be assigned a special prison for all who were awaiting its judgment.[100] Before this, prisoners held for hearing by the Tribunal had been distributed in the several prisons of Paris.[101] The request of the public prosecutor suggested the Conciergerie of the Palais de Justice, in which the Tribunal itself was housed.[102] The matter was referred to Paré, Minister of the Interior, who found no difficulty in issuing the necessary orders.

[96] *Ibid.*, LXXV, 177-178. Le Roy, Jourdeuil, and Brochet still remained from the original jury. *J.D.D.*, No. 375, pp. 389-391.

[97] *A.P.*, LXXVII, 668.

[98] *Ibid.*, LXXVIII, 28; *J.D.D.*, No. 406, p. 123.

[99] *Moniteur*, October 30, 1793, XVIII, 292.

[100] *A.P.*, LXXIV, 255. Later additional prison facilities were put at the disposal of the Tribunal. On March 30, 1794, the Committee of Public Safety authorized transportation for prisoners being moved from the Conciergerie to other prisons (Aulard, *Recueil . . . salut public*, XII, 280); on June 3, by order of the same Committee the Collége des Quatre nations was prepared for the Tribunal's prisoners (*A.N.*, F^{7} 4436A), while two weeks later the Collège du Plessis was permitted to receive prisoners from the police of the Commune of Paris subject to suitable arrangements for surveillance (Aulard, *Recueil . . . salut public*, XIV, 353).

[101] These were very numerous. According to de Proussinalle (*Histoire secrète du Tribunal révolutionnaire*, I, 298), the prisons in 1794 numbered forty-one.

[102] The assignment of quarters for the new Tribunal had caused much concern in late March. It was decided to lodge it in the *salle* previously occupied by the *tribunal de cassation* in the Palais de Justice. (See President of the Commission of Six to the Minister of Justice, March 18, 1793, and the *Procureur-général-syndic* of the department of Paris to the Minister of the Interior, March 28, 1793. Both of these letters may be found in *A.N.*, F^{ic}III, Seine, 27).

The reorganization of the Tribunal effected on September 5, 1793, and completed in the days immediately following endured until June, 1794. At this time although the four sections continued in operation, the enactment of the law of 22 Prairial, year II (June 10, 1794)[103] introduced such changed circumstances that the Tribunal must be considered as entering the third and, in many respects, the most important phase of its existence. The new law, although intended primarily to speed up procedure, made some changes in the organization of the Tribunal. These recommended changes, introduced in the Convention by Couthon, originated with the Committee of Public Safety and were adopted virtually without amendment though not without promptings by Robespierre and his supporters.[104] The law had as its fundamental purpose the speedy elimination of all doubtful and doubting patriots from the revolutionary society. It transferred power which had previously rested with the Convention to the Committee of Public Safety and gave a tremendous impetus to the work of the Revolutionary Tribunal. It contained a broad definition of the term "enemy of the people," and after a bitter and extended fight even the members of the Convention lost the immunity that they had previously possessed in the requirement that they could be indicted only by the direct charge of their colleagues.

Out of the twenty-two articles of the new law only the first three touch upon the question of reorganizing the Tribunal. The personnel was in the future to include a president, three vice-pesidents, twelve judges, a public prosecutor with five assistants, and fifty jurors.[105] The individuals who were to hold these positions were all named in the law. The Tribunal was to continue to operate by sections, but in the future each section would be made up of three judges and nine jurors with agreement by seven jurors required for the pronouncement of a verdict of conviction.

This third phase, marked by intense activity, was relatively short in duration.[106] To a degree the fear generated by the rapid pace of the Tribunal contributed to the formation of the attack against Robespierre with whose name the Tribunal was to be closely and perhaps erroneously

[103] The law of 22 Prairial can be found in *Moniteur*, June 12, 1794, XX, 696-697 or *J.D.D.*, No. 629, pp. 350-353. In the Tribunal's records the law is in *A.N.*, W511.

[104] *Moniteur*, June 12, 1793, XX, 694-699; *J.D.D.*, No. 628, pp. 332-335.

[105] Even though this represents a reduction from previous requirements, Couthon, in reporting for the Committee of Public Safety, admitted that it would be necessary to add members to bring the total up to the new limits (*Moniteur*, June 12, 1794, XX, 696). But it was more than a matter of filling normal and chronic vacancies for on this occasion several old members were dropped as being too moderate. (Campardon, *op. cit.*, II, 23; Lenôtre, *op. cit.*, p. 170).

[106] One thousand four hundred seventy sentences of death, slightly more than half the total number of such sentences, were pronounced by the Tribunal in the period June 10 through July 30, 1794. See *Liste des victimes du Tribunal révolutionnaire à Paris* (Paris, 1911), pp. 70-131.

linked. The overthrow of this leader on 9 Thermidor (July 27, 1794) had as a natural corollary the examination of and a reduction in the role which the Tribunal was playing as an agency of the revolutionary government. The political heritage of the Thermidoreans could not include a Tribunal operating at full tilt, important as such a Tribunal might continue to be as a useful adjunct of government in a time of trouble and uncertainty. The Thermidoreans accordingly restored the Tribunal to the pace and procedure that had been characteristic of it in its earliest days.

This fourth phase of the Tribunal's history began on 14 Thermidor (August 1) when the Convention repealed the now infamous law of 22 Prairial, and decreed that the Committees of Public Safety, General Security, and Legislation should present on the following day a new plan of organization for the Tribunal.[107] On 23 Thermidor (August 10) it was decided that the laws governing the operations of the Tribunal before the 22 Prairial—that is the procedure and laws of the first and second phases—should again take effect and that new members of the Tribunal would immediately take their places.[108] On the same day these new members were announced in a long list that included four vice-presidents,[109] nineteen judges, a public prosecutor with five assistants, a *greffier,* and fifty-nine jurors.[110] The new organization was to continue to operate by sections,[111] though it is not clear whether the section of twelve—three judges and nine jurors—authorized by the law 22 Prairial was still permissible. Presumably it was not to be used; the new list of jurors indicated clearly a jury of fifteen—twelve jurors and three substitutes—for each section and the decree called unmistakably for a return to the forms of the Tribunal before they were corrupted by the political ambitions of the "tyrant" Robespierre.

The Convention continued its interest in the "purified" Tribunal, and despite the fact that the revolutionary need for such an institution was fast disappearing, went to the trouble, on 8 Nivôse, year III (December 28, 1794) to give the Tribunal a complete reorganization. This fifth and last phase of the Tribunal's existence was marked—surprisingly enough—by the promulgation of a law of seventy-six articles rigorously prescribing the procedure to be used by the Tribunal.[112] There are few better examples of belated diligence. The personnel of the Tribunal was now reduced to about half its previous number by the pro-

[107] *Moniteur,* August 2, 1794, XXI, 369; *J.D.D.,* No. 681, p. 257.

[108] *Moniteur,* August 11, 1794, XXI, 448; *J.D.D.,* No. 697, p. 397.

[109] Dobsen was selected as president of the Tribunal in a special act on 24 Thermidor. *Moniteur,* August 13, 1794, XXI, 464; *J.D.D.,* No. 690, p. 406.

[110] *Moniteur,* August 14, 1794, XXI, 466-467; *J.D.D.,* No. 691, pp. 429-432. The Convention evidently intended to have sixty jurors, but only fifty-nine are given in the list.

[111] *Moniteur,* August 14, 1794, XXI, 467.

[112] Law of December 28, 1794, *ibid.,* January 3, 1795, XXIII, 107-110.

vision that there should be twelve judges, a public prosecutor and three assistants, a *greffier,* and thirty jurors—all to be replaced every three months.[113] Two sections were to be maintained and each was to have six judges, of whom three would officiate at the public trials while the other three conducted the preliminary hearings. The allocation of judges and the distribution of cases were to be determined by lot.[114] From the standpoint of organization the law of 8 Nivôse was similar to the law of September 5, 1793, but with the personnel divided by half. It is interesting to note that this reorganization in the twilight of the Tribunal's existence was by far the most complete—indeed was the only one which enacted in considerable detail the procedural rules for the Tribunal's activities.

Despite the completeness of the legal preparation for the reorganized Tribunal, difficulty was again encountered in securing acceptances of nominations and on 7 Pluviôse, year III (January 26, 1795) the Convention was forced to modify the provision calling for two sections and to permit those judges who were then in Paris to form themselves into one section.[115] Almost two weeks later, on 20 Pluviôse, the president of the Tribunal was authorized, while awaiting the arrival of the thirty jurors, to draw eleven jurors by lot from those available in order that current trials might be heard.[116] This seemingly was the last action of the Convention pertaining to the organization of the Tribunal. By decree of 12 Prairial, year III (May 31, 1795), the Tribunal was abolished and the crimes which had come under its jurisdiction were now placed under the cognizance of the criminal tribunal of the departments. It will be recalled that a number of the earliest trials heard by the Revolutionary Tribunal had been transferred to it from the criminal tribunals. The wheel had gone a full turn. One provision, however, prevented the complete restoration of the ordinary procedure of the departmental courts. It was required by the same decree that those accused of conspiracy or of any act against the general safety of the nation by a specific charge brought by the legislative body should be tried by the criminal tribunal of the department in which the act occurred before a special jury of thirty persons drawn from a list prepared by the *procureur-général-syndic* of the department and by the procedure prescribed by the law of 8 Nivôse.[117] This was the last significant legislative reference to the laws that created or modified the Revolutionary Tribunal.

A reconsideration must emphasize again that the life of the Tribunal was divided into five well marked phases: March 11 to September

[113] Same, sec. 2, articles v, vi, vii, *ibid.,* 107. A list of personnel is given *ibid.,* January 5, 1795, 123-124.
[114] Same sec. 3, article xvii, *ibid.,* 108.
[115] *Ibid.,* January 28, 1795, 310.
[116] *Ibid.,* February 10, 1795, 413.
[117] *Ibid.,* June 4, 1795, 596.

5, 1793; September 5 to 22 Prairial, year II (June 10, 1794); 22 Prairial to 23 Thermidor, year II (August 10, 1794); 23 Thermidor to 8 Nivôse, year III (December 28, 1794); and 8 Nivôse to 12 Prairial, year III (May 31, 1795). In this chronological schedule, the period of most intense activity—that of 22 Prairial to 23 Thermidor—falls about midway in the Tribunal's history. It may be somewhat surprising that the period in which the Tribunal "ran down" equaled in length the initial stages during which it was securing momentum for its Herculean activities of the summer of 1794. This suggests that, while the events of 9 Thermidor discredited the "corrupted" form of the Tribunal, they did not discredit the institution itself. The political character and uses of the Tribunal were at all times recognized by a substantial portion of the Convention and there was little disposition on the part of contemporaries to judge the Tribunal on either moralistic or legalistic grounds.

The various laws which dealt with the organization of the Tribunal were of a skeleton character. The only one which attempted a detailed consideration of Tribunal structure and function was that of 8 Nivôse year III (December 28, 1794) at a time when the activities of the Tribunal had reached a virtual standstill. It was obvious from the beginning that two forces shaped the Tribunal far more than legislative control. These were emulation and adaptation—emulation of the recently installed criminal tribunals of the departments and adaptation, through experience, to the demands of revolutionary justice.

CHAPTER II

THE PERSONNEL OF THE TRIBUNAL

In any study of a judicio-administrative institution established in a revolutionary atmosphere and for the purpose of revolutionary action, one of the main considerations should be some understanding and appraisal of the persons who as members of that institution formulated and expressed its will. Even in the most placid periods of national existence, the forms and operations of governmental bodies cannot be entirely separated from the personalities through which they work; in periods of revolutionary change the formalism of institutional procedure may be greatly influenced or changed by the impact and force of personalities. In such instances the focus of attention wisely shifts from procedures to persons. The Revolutionary Tribunal, in particular, can be understood fully only in terms of those who composed it, for here is one of the best of the historical examples of the effect of personality upon embedded and entrenched institutional forms. Yet withal there was preserved that regard for appearance and ritual that kept the hull, the outer surface, remarkably unchanged while the content underwent alteration. In a sense, through personality law was diverted as an end of ordinary society to a means of revolutionary society, where it had been a shield it now became a sword. It is also of interest to observe that just as the Tribunal went through five distinct phases of organizational history to adjust it to the tensions of the moment, so each reorganization had its counterpart in the changes and arrangements of personnel.

Unfortunately, any study of the personnel of the Tribunal throughout its history is accompanied by almost insuperable difficulties. It would be perhaps impossible to establish with assurance a complete roster of all who served in some capacity on the Tribunal; it is certainly impossible to enter very far into the complexities, characters, and motivations of those who were found on the bench, in the jury, or serving in any of the several minor posts. The Revolution represented a great stirring of the pot and in that process many came briefly to the top but remained too briefly or appeared too obscurely to be identified and forced to submit to some convenient classification. Nonetheless it is desirable that as much be said as can be said. Certain observations seem clearly indicated and a general treatment of the problem of personnel is essential to this study. In what follows, we have gone as far as possible in dealing with the problem and nature of both the masters and servants of the Tribunal; throughout, however, there has been the tendency to draw back as the ground beneath our feet became infirm.

On March 13, 1793, two days after the legislative mandate for the Tribunal, the Convention fulfilled the obligation placed upon it by its new decree and announced the result of its election of judges. Although but five judges were required, the possibilities of rejection were recognized by naming ten men. Of the ten, five were to be judges and five to be substitutes; the distribution between the two ranks would be determined by the number of votes received by each. The official list included the following persons.[1]

NAME[2]	DEPARTMENT[3]	INDICATION OF STATUS[4]
Liébaut[a]	Doubs	National commissioner in Belgium[f]
Pesson[a]	Loir-et-Cher[b]	National commissioner in Belgium;[g] judge at Vendôme
Montané	Haute-Garonne[b]	Justice of the peace at Toulouse
Desfougères[a]	Indre[b]	.....
Des Madeleines	Orne[b]	Brother of the Girondin deputy C-E Zoa Dufriche de Valazé[h]
Grandsire[a]	Oise[b]	.....
Foucault	Allier[b]	Farmer, employee at a stud farm, legislator's clerk[c]
	SUBSTITUTES	
Champertois[a]	Paris	President of the tribunal of the sixth arrondissement, Paris[e]
Rousillon	Paris	Surgeon, member of the jury of the tribunal of August 17[c]
Tartanac	Gers	Member of the legislative asembly, judge at Valence[d]

Although only five judges were to be named, Des Madeleines, Grandsire and Foucault had received the same number of votes for fifth place

[1] The list is from *A.P.*, LX, 177, plus additional information as indicated by the symbols. Those with experience in using the records of the period scarcely need be reminded of the vexatious problem of spelling proper names. Many of those following have been seen in several forms and appear in the following pages uniformly if not correctly.

[2] *a* marks those who refused to serve. In Liébaut's case, however, the initial refusal on March 21, 1793 (*A.N.*, C250, No. 412) was reversed on March 26 in a letter to the President of the National Convention in which Liébaut mentions the coming withdrawal of the army in Belgium and the end of his duties as national commissioner. He is now ready for new employment and promises to devote himself to the success of the good cause (See *Ibid.*, DIII 267-268).

[3] *b* marks information concerning departments secured from P. Joanne, *Dictionnaire géographique et administratif de la France* (7 vols.; Paris, 1905) when the list referred to the town or district of residence. The reader must be warned, however, that in some cases—especially in subsequent lists—it is impossible to tell whether the identification of a judge or juror with a particular place refers to residence or birth.

[4] *c* marks information from G. Lenôtre, *op. cit.*, pp. 13-14. *d* refers to Dr. Robinet, A. Robert, and J. Le Chaplain, *Dictionnaire historique et biographique de la révolution et de l'Empire* (Paris, n.d.), II, 773. *e* is from *A.N.*, BB^{30} 25. *f* is from *ibid.*, C250, No. 412. *g* is from *ibid.*, DIII 267-268. *h* is from P. Montarlot, *Les accusés de Saône-et-Loire aux Tribunaux révolutionnaires* (Autun, 1901).

and were all classified together until the eldest could be determined—a bit of chronology that became unnecessary as the many refusals left room on the bench for all who would accept. Out of the list of judges and substitutes five finally accepted office,[5] although it seems probable that only four actually attended the sessions,[6] and only two appeared in Paris to take the oath of office on the day it was first administered.[7] On that same day, however, a letter from the Tribunal to the Minister of Justice, informing him of the election of Fabricius as *greffier*, bore the signature of Montané as president of the Tribunal.[8] At about the same time an *avis* of the Tribunal carried, amongst others, the name of Des Madeleines.[9] These four were obviously present from late March and made up the first bench of the Tribunal.

Not only was the bench short of judges, but the judges were equally short of legal training and experience. Montané, who became president by virtue of age, had been a justice of the peace, an office created during the reforms of the criminal courts,[10] and possessing little judicial importance; Tartanac was a practicing judge but his experience was lost as he apparently did not come to Paris to take his place on the bench; Rousillon had been a juror on the tribunal of August 17; and Des Madeleines and Foucault, as far as can be determined, had no legal experience of any kind. It is only fair to say that from the standpoint of legal experience, this first bench of judges was by far the least qualified of any chosen by the Convention during the existence of the Tribunal.

The initial selections are difficult to explain. One would suspect some political purpose but apparently such a suspicion cannot be justified. Of the four judges who served none seemingly had any pronounced affiliations with either the Girondins or the Jacobins. It would also appear that such preferences as the bench had were evenly divided between the two factions. It is known that Des Madeleine had a brother, Dufriche de Valazé,[11] in the Convention where he strongly opposed the

[5] Foucault to Minister of Justice, March 23, 1793; Montané to same, March 25, 1793; Des Madeleines to same, March 27, 1793; Tartanac to same, April 6, 1793, *A.N.*, BB^{30}25. No letter of acceptance was received from Rousillon but he took the oath of office and was installed as a judge of the Tribunal on March 29-30, 1793. See *Ibid.*, W502.

[6] It is doubtful that Tartanac ever served on the Tribunal. At first his address was unknown (Gohier to the President of the National Convention, *Ibid.*, BB^{30}25) and his notification of election was delayed. He replied on April 6, however, accepting this new responsibility but asked for a delay of eight days to permit a recovery from a fever. It seems likely that this delay was prolonged.

[7] Foucault received the oath with Rousillon. See above n. 5.

[8] March 29-30, 1793. *A.N.* BB^{30}25.

[9] This document is without date but apparently can be assigned to the end of March, *A.N.*, W502.

[10] E. Seligman, *La justice en France pendant la Révolution*, I, 302.

[11] Lenôtre, *The Tribunal . . .*, p. 13.

Mountain and protested against the events of May 31-June 2, 1793[12] by which the leading Girondins were ousted; it is to be presumed that the new judge shared his brother's political opinions. There is also grounds for presuming that Montané was opposed to the Mountain; his attempt to alter the indictment of Charlotte Corday to prevent her conviction as a counter-revolutionary would suggest such an attitude. It will be recalled that this alteration resulted in the arrest of Montané.[13] The case is quite clear with reference to Foucault and Rousillon: both were members of the Jacobin Club in Paris.[14] It is also significant that Foucault and Rousillon survived the first purge of the bench and continued to serve into the period when the domination of the Jacobins had become uniformly distinct throughout the agencies of government.[15] Neither Foucault nor Rousillon seemed prominent at the Jacobin Club and both can be accepted as minor figures. The first bench of the Tribunal thus seemed of no pronounced political preference and reflected the rather even balance of parties in the Convention at the time of election. It was not until June 2 and the over throw of the Girondins that the Tribunal may be said to have become completely identified with the Jacobin faction and firmly assumed that political attachment with which it was so closely associated in the popular mind. It was this association that led Roblot and others to contend that as the Robespierrists came to power they pushed their partisans into the ranks of the judiciary.[16] This is a question that will receive some attention from time to time.

For the performance of their duties the judges were to receive the same salary as that given to the judges of the criminal court of the department of Paris. This had its difficulties for the salaries of these judges were based upon four thousand livres a year, with the provision, however, that only two-thirds of this was received as straight salary while the other third went into a fund from which payments were made in proportion to services.[17] The complexities of this system of pay were eliminated on July 24 when a decree of the Convention fixed the salary of the judges and jurors at eighteen livres per day.[18] The accumulated

[12] Robinet, Robert and Le Chaplain, *op. cit.*, I, 687.
[13] See *supra*, p. 18. Also see Campardon, *op. cit.*, I, 92.
[14] Aulard, *La société des Jacobins*, V, 276 and 558.
[15] *Infra*, p. 38.
[16] R. Roblot, *La justice criminelle en France sous la terreur* (Paris, 1937), p. 5.
[17] Seligman, *op. cit.*, I, 307.
[18] *Moniteur*, July 25, 1793, XVII, 210; also *A.N.*, W508. The expenses of the establishment and the initial period of the Tribunal proved troublesome. On June 18, 1793, the Minister of the Interior wrote the President of the Committee on Legislation and complained that no provision had as yet been made for the "frais de premier établissement," nor for the expenses of the Tribunal's clerical work, nor for the supplies necessary to its operation. He was of the opinion that bills should be presented first to the Minister of Justice as that official was "beaucoup

sum, under the provisions of an earlier decree, was to be paid monthly from the national treasury on an order by the presiding judge approved by the Minister of Justice.[19]

The jurors selected to serve at the first sessions of the Tribunal present an equally important subject for analysis. The list approved on March 13 included the following:[20]

NAME [21]	DEPARTMENT[22]	INDICATION OF STATUS[23]
Dumont	Somme	.....
Brisson[a]	Oise[b]	Mayor of Beauvais
Coppin	Seine-et-Oise[b]	Member of Legislative Assembly[c]
Lagrange[a]	Seine-et-Oise[b]	Commandant of the National Guard at Saint-Cloud
Langlier[a]	Oise[b]	Former member of the Constituent Assembly
Cabanis	Corrèze	Doctor, friend of Helvétius, Diderot and d'Alembert
Jourdeuil	Paris	Police administrator; member of committee of surveillance of commune of 10 August
Fallot	Seine-et-Oise[b]	Former officer of justice at Saint-Cloud
Poullain[a]	Eure-et-Loire[b]	Judge at Chartres
Ganney	Paris	Wig-maker and elector
Laroche[a]	Seine[b]	Mayor of Auteuil
Fournier[a]	Paris	Architect and elector[e]
	SUBSTITUTES	
Fréteau[a]	.....	Former member of Constituent Assembly
Hattinguais	Seine-et-Marne	National representative at Meaux[c]; former procureur of the king[e]
Leroy	Seine-et-Marne	Former marquis[d]

plus amené de juger des objets divers qu' exige le service d'un tribunal" (*A.N.*, DIII 267-268). Even earlier—May 15, 1793—Des Madeleines, as a judge of the Tribunal, had written to the President of the Convention to call attention to the neglect of an earlier *mémoire* concerning the payment of judges and jurors who were now about to return home. He suggested an audience should that be necessary. (*ibid.*)

[19] *J.D.D.*, May 7, 1793, No. 232, pp. 101-102; also *A.N.*, W508.

[20] The list is taken from *A.P.*, LX, 177; additional information is from the sources cited in the following footnote.

[21] *a* denotes that the nominee refused to take office. In almost every instance letters of acceptance or rejection may be found in *A.N.*, BB^{30}25.

[22] *b* indicates that where the commune or district was given the department in each case was determined by the use of Joanne, *op. cit.*

[23] *c* signifies information found in Robinet, Robert, and Le Chaplain, *op. cit.*, under the person's name; *d* denotes information from Lenôtre, p. 14; *e* marks information from P. Montarlot, *op. cit.*, pp. 12, 13, 14, 15.

Maignon[a]	Paris	Member of a committee of surveillance
Gaudin[a]	.....	Lawyer
Brochet	Paris	Former guard at a tribunal[c]; partisan of Marat[c]
Chancerel[a]	Eure-et-Loire[b]	Mayor of Courville
Duplain[a]	Paris	Book dealer, elector, member of the commune of August 10, and friend of Danton[c]
Saintex[a]	.....	Doctor
Chrétien	Oise	Cafe keeper
Chanteloups[a]	.....	.....
Grandmaison[a]	Paris	President of the section of the Luxembourg

The ten jurors[24] who responded to the summons could not be reproached, as could the judges, with a lack of legal training or experience. The entire emphasis in the establishment of the jury sytem had been for a jury of honest and pure-hearted men with that intuition for discovering innocence and that instinct for determining guilt that the unspoiled are assumed to have. The inauguration of the jury system in France had been accompanied by the idea that the law could be so simplified and the discernment of guilt and innocence made so clear that the upright, honest and enlightened citizen would have no difficulties with legal subtleties and depending upon his civic virtues would go unerringly to the correct verdict when confronted with the accused. The first jury selected by the Convention represented something obviously better than the average. It contained some men with judicial experience or with public service to their credit; others had rather better than average positions in the social and economic world. If anything the jurors measured up to their responsibilities in somewhat more impressive fashion than did the judges.

Politically the jury was not as well balanced as the bench. Almost without exception those residing in Paris were members of the Paris Jacobin Club;[25] it is not easily possible to establish the political preferences of those from out of Paris. The rather close sympathy of the jury with Jacobin principles is further attested by the evidence of continued service on the part of a large proportion of the original jurors. On July 31, 1793, Fabricius, the *greffier* of the Tribunal in a report to Gohier, the Minister of Justice, gave a list of all the jurors actively engaged, at that

[24] Curiously enough, the Minister of Justice received an offer of voluntary service which was not accepted. Goubert, who described himself as a former juror of the tribunal of August 17, wrote expressing his willingness to serve. *A.N.*, BB[30]25.

[25] It is difficult in each case to establish that a juror of one name is necessarily the member of the Jacobin Club with the same name. Initials are lacking and other means of identification not readily at hand. It seems unlikely that in many instances the assumption of identity would go wrong. The index of Aulard, *La société* . . . , VI, 720-800 has been used in matching Tribunal personnel with members of the Jacobin Club.

time, in their duties.[26] Since this was two months after the overthrow of the Girondins and as a new jury had gone into service on July 1 a strong presumption is created that any remaining from the original selection were friendly, or, at least, not antagonistic, to the Mountain. Of the ten jurors who served on the first jury only two had left the Tribunal by the end of July. Cabanis resigned on April 23 after several weeks of ill health;[27] while Hattinguais had just recently—on July 30—requested Gohier to permit him to return to his previous work at Meaux.[28] Not only had the remaining eight of the first list continued in their duties but they had been joined by three others of the group of March 13 who had at first refused the proffered appointment: Duplain, Saintex, and Gaudin.[29] The first jury combined Jacobin sympathies with personal qualities of a rather high order; economically, socially, and it is to be presumed, intellectually this jury was appreciably above the average of the national stock at the time.

In the law of March 10-11, 1793, there had been no provision for paying the jurors for their services,[30] but on April 3, three days before the beginning of the first trial, the Convention voted to give the jury the same pay that had been approved for the judges.[31] Three months later, on July 2, on a report from the Committees on Legislation and Finance, the Convention, in view of the expenses of the jurors in maintaining themselves in Paris for presumably short periods in office, voted to increase this pay, along with that of the judges, to eighteen livres a day.[32] This remuneration undoubtedly relieved the position of juror of a financial sacrifice that might originally have discouraged service; even more important it made it possible for certain present jurors to look increasingly toward the prospects of becoming a permanent and professional juror. This development was not without its influence upon the future hardened psychology of the long-term juror.

Undoubtedly the most important appointment to the Tribunal, though it could not have been foreseen at the time, was that of Fouquier-Tinville

[26] This list may be found in *A.N.*, BB[30]25.

[27] Cabanis to Gohier, *ibid.* Cabanis had delayed his acceptance because of illness but had been drawn to his post by the details of the conduct of Dumouriez.

[28] Hattinguais to Gohier, *ibid.* Hattinguais pointed out that the arrival of new jurors would make it possible for him to retire without inconvenience to the Tribunal.

[29] List of Fabricius, July 31, 1793, *ibid.* In this list Fabricius names the jurors then on service and ten jurors coming in under the renewment policy. In the list of the former he names Duplain, Saintex, and Gaudin (Godin) although their letters in late March rejected appointment. Curiously enough he writes of ten as the number of the *"ancien jurés"* but gives the names of eleven.

[30] There is reason to believe that since the term of the juror was limited his employment was considered so temporary in nature that pay would not be necessary. See L. Domenget, *Fouquier-Tinville et le Tribunal révolutionnaire* (Paris, 1878), p. 6.

[31] *A.P.*, LXI, 126. A copy of this decree may be found in *A.N.*, W130, No. 32.

[32] *A.P.*, LXVIII, 93. A copy of this decree is in *A.N.*, W508.

to the office of public prosecutor. In the voting of the Convention on March 13,[33] this appointment had gone to Faure but his refusal to serve had left the way open for Fouquier-Tinville, the highest man on the list of three deputy public prosecutors. Quite by chance the Tribunal secured an almost perfect servant for the task before it. The quality of Fouquier-Tinville which made him so valuable in his future services was the combination of a slow burning fanaticism with the temperament and habits of a bureaucrat. His life had been something of a failure before his appointment to the Tribunal and there was undoubtedly an accretion of bitterness in his personality, a sharpness in his outlook, that made his new work attractive. In addition he was energetic, a good organizer, and quite willing to follow orders from superiors, or if there were no orders, to adapt himself to the needs of the moment. It seems altogether likely that Fouquier-Tinville, during his tenure of office at the Tribunal, conceived of his work as merely the machine-like translation of impulses from above and without into definite judgments of the Tribunal whose operations he regarded with great attention. If there were any questions of ethics or morality, they belonged not to him but to those whom he served in the capacity of a compliant public servant.[34]

Fouquier-Tinville, a former *avocat,* was not without experience as a member of an extraordinary tribunal. He had been associated with the Tribunal of 17 August (1792) as the director of the grand jury (*jury d' accusation*).[35] Since it seems likely that he received this post through the intercession of Camille Desmoulins,[36] whom Fouquier adressed as a kinsman, it is certain that Fouquier at this time represented an advanced revolutionary position. He was a member of the Jacobin Club in Paris.[37] Upon the collapse of the Tribunal of 17 August, he found no difficulty in furthering his legal experience by securing a place as deputy public prosecutor on the criminal court of the department of Paris. It was from this position that he cautiously wrote on March 29, 1793, his acceptance of an appointment on the new extraordinary tribunal.[38] Fouquier-Tinville's effort at this time to keep open some line of retreat to his post on the departmental tribunal indicates quite clearly

[33] *A.P.,* LX, 177.

[34] There are several biographies of Fouquier-Tinville. See especially: L. Domenget, *op. cit.;* G. Lecocq, *Notes et documents sur Fouquier-Tinville* (Paris, 1885); and J. T. de Castelnau, *Fouquier-Tinville, le pourvoyeur de l'échafaud* (Paris, 1937).

[35] Campardon, *op. cit.,* I, 13.

[36] Fouquier-Tinville to Desmoulins, August 20, 1792, quoted in Lenôtre, *op. cit.,* p. 33.

[37] Fouquier apparently played little part in the activities of the Club. It is of interest to note, however, that he was one of the secretaries at the time when the Tribunal was being formed and when he himself was nominated as assistant public prosecutor (Aulard, *La société . . . ,* V, 8, 107). Near the end of 1793 in one of the *épuration* Fouquier was among those receiving the approval of the Club (*ibid.,* V, 558).

[38] Fouquier-Tinville to the Minister of Justice, *A.N.,* BB^{30}25.

that he feared the new Tribunal would follow the brief pattern of the disappointing one of August 17. All in all, the public prosecutor was a man of the left and was perhaps as receptive of liberal and radical influences as any of the judges or jurors. The Jacobin faction, if it could dominate the Convention, would find in Fouquier-Tinville a willing servant to apply the burgeoning theories of revolutionary law at the Tribunal. Yet it must be stressed that the impress of these laws upon the mind and personality of the new public prosecutor gained far more from the authority of government than from the theories of social reconstruction. Fouquier-Tinville was inclined toward radicalism; but he venerated authority and the power of command.

The two deputy public prosecutors selected to assist Fouquier-Tinville in his work were a former monk named Donzé-Verteuil and an ardent Robespierrist named Lescot-Fleuriot.[39] In the vote of the Convention, the two had tied and a letter of Lescot-Fleuriot to Gohier on March 25, 1793, pointed out that Donzé-Verteuil was his senior by almost a decade and would therefore presumably be preferred in the appointment.[40] The refusal of Faure, however, upon the plea of inadequate strength and a recent appointment as national commissioner to one of the civil tribunals of Paris,[41] opened the door for both to come in. Little is known of the political preferences of Donzé-Verteuil; his position as a renegade monk and his subsequent elevation from juror to judge of the Tribunal argue strongly an identity with the left of the Convention. Lescot-Fleuriot subscribed himself as *bon jacobin* in his letter of acceptance and possessed the confidence of Robespierre with whom he participated in the events of 9 Thermidor and in the martyrdom that followed. His services on the Tribunal were to be interrupted, however, by an interlude as mayor of the Commune of Paris. The Mountain, thus, would seem to have been in control of all three offices most intimately concerned with the preparation and prosecution of cases before the Tribunal.

The three officers occupied the strategic center of the Tribunal's operations. Fouquier-Tinville, or his deputies, were in command of all cases from the preliminary hearing through the pronouncement of the judgment. In addition to the duties of prosecuting the cases, an enormous burden of work fell upon this office in collecting, copying, and filing many documents essential to the trials and in notifying outside authorities of the receipt of documents and the disposition of the cases.[42] The public prosecutor in keeping with the French practice was also treated as

[39] *A.P.*, LX, 177; Campardon, I, 14-15. It will be recalled that the refusal of Faure to accept the position of public prosecutor moved each man below him in votes up one place.

[40] *A.N.*, BB^{30}25.

[41] Faure to the Minister of Justice, March 21, 1793, *ibid.*

[42] *Infra*, pp. 116-123, 125-126. See the section of the work on the accusator's office and the records' office of the Tribunal.

the official head of the Tribunal by the Convention and its committees—a recognition that involved considerable work in the making of reports, reception of decrees and orders, and the maintenance, in this office, of the records of the cases.

The compensation for this work, according to the act establishing the Tribunal, was to be the same as that paid to the equivalent officers of the criminal court of the department of Paris, but on July 24 the Convention decreed that the salary of the public prosecutor should be the same as that of the president of the Tribunal.[43] This was eighteen livres per day.

As the work of the Tribunal involved an unusually heavy documentary burden, the public prosecutor was the head of a staff of clerks and copyists. This department of the Tribunal was divided into two offices. That known as the *greffe,* and constituting the official depository for the legal records of the Tribunal, was under an officer known as the *greffier* (clerk of the court). The other office, or the *parquet,* was directly under the public prosecutor and was concerned primarily with the reception, copying, and filing of documents associated with the case of each defendant—in other words the problem of controlling documents and preparing evidence for the trials rather than preserving these records for posterity. In addition to the rather heavy need for clerical assistance, the Tribunal employed a number of *huissiers* (bailiffs) for the execution of warrants, the summoning of witnesses, the preparation of legal inventories, and the fulfillment of the Tribunal's needs in the matter of responsible messengers. As office boys the Tribunal was assigned *garçons de bureau* and for the superintendence of the building an allowance was made for a *concierge.*[44] These individuals in their functional capacities will enter this account repeatedly in the future.[45]

The first chosen of the men to fill these subordinate places was Fabricius, a friend of Danton's[46] and a resident of Paris, who was appointed *greffier.* Fabricius was at the time national commissioner at Lille.[47] The act of March 10-11 had made no provision for assistants in

[43] *J.D.D.,* July 24, 1793, No. 310, p. 308; *A.N.,* W508.

[44] An interesting early evidence of the problem of keeping the Tribunal supplied with the required services can be found in a "Mémoire pour le tribunal révolutionnaire," September 10, 1793 (*A.N.,* DIII 267-268) signed by Dobsen, as president, and Fouquier-Tinville, as public prosecutor. The Convention is asked to increase the number of *garçons* from four to six and of *huissiers* from six to eight. The existing salaries for these appointments were also to be increased. This request accompanied the move to establish the Tribunal in four sections.

[45] While it would be interesting to have a complete history of the personnel of the Tribunal in the minor posts, it is doubtful that a full and correct list could be compiled. The number of employees was several times increased; in addition, individuals came and went in accordance with the play of migratory influences. Information must be pieced together from several sources amidst constant misgivings that gaps must certainly exist.

[46] Lenôtre, *op. cit.,* p. 15.

[47] Fabricius was an assumed name. The original name was Paris; the change to Fabricius was made on February 6, 1793, at the insistence of the general council

either the office of the *greffier* or that of the prosecutor, but on April 28, 1793, the president of the Tribunal requested that the Convention authorize the employment of secretaries by the prosecutor and that an increase be made in the staff of the Tribunal, the work of which was "*très fatigant.*"[48] The Convention, following the recommendation of its Committee on Legislation, generously responded on May 7 by giving the prosecutor two secretaries and a sum of three thousand six hundred livres each for their compensation, and in addition an office boy at nine hundred livres per year. The office of the *greffier* was granted three assistant clerks at a salary of three thousand livres each, and three copying clerks at fifteen hundred livres each. As it was further provided that these salaries be calculated as beginning on April 10,[49] it is reasonable to assume that the Tribunal had anticipated this authorization for assistance.

At the same time two additional *huissiers* (bailiffs) were added to the four already appointed by the judges and their compensation set at twelve hundred livres a year, while fifteeen hundred livres was granted for a *concierge* to be designated by the Tribunal.[50] The Tribunal also acquired one doctor and two surgeons to serve it in the treatment of sick persons within the Tribunal's care. Their services were especially necessary in the examination of women who claimed pregnancy as grounds for a stay of execution in judgments of death.[51] A few days

of the commune of Paris which refused to issue him a passport under his original name. The objection was that this had been the name of the assassin of the deputy Le Pelletier. (*A.N.*, F^{7}4774^{63}). Fabricius was sent for by special messenger to Lille and urged to undertake this important assignment (*ibid.*, BB^{3}025).

[48] *A.P.*, LXIII, 496.

[49] *J.D.D.*, No. 232, p. 100.

[50] *Ibid.*

[51] The Tribunal apparently made full use of its *officiers de santé*. Complaints of ill health made by the sufferer, by his prison companions, or by outsiders were regularly investigated. The reports of the doctors frequently included statements of the patient's condition in which physical appearance and symptoms, pulse, nervous reactions, and appetite were duly described. In cases of real illness the recommendation might be made to move the patient to pleasanter surroundings and administer a course of medical treatments. The Hôtel Dieu or Hôtel de la Salpêtrière were sometimes stipulated; in other instances prisoners were sent to private *maisons de santé*. Thus *la fille* Carle and Françoise Chabinot were transferred during periods of heavy Tribunal activity (*A.N.*, W502). The authority for the visitation of the prisoners by the doctors was duly posted in the *1er Registre* of the Tribunal on April 10, 1793, and the first visit so made was apparently one of May 4 to the *femme* Kolly (*ibid.*, W531). As the prisons became more crowded the infirmary of the Conciergerie became inadequate—it had always been unsuitable—for the prisoners of the Tribunal. On 1 Nivôse an II, Fouquier-Tinville, complaining of the insalubrity of the air and his fear of pestilence, demanded of the Committee of Public Safety additional quarters. He then reported that in the infirmary 31 persons were at the moment confined in 28 beds (*ibid.*, D^{III} 267-268). Pregnant women were a special problem. The law, of course, did not permit the loss of two lives—that of the unborn child as well as the mother—in executing women found guilty of counter-revolutionary activities. Taking advantage of this fact, women from time to time claimed to be in an early stage of pregnancy. It is interesting to note that long imprisonment did not preclude the possibility of this condition. The medical officers were expected to distinguish between real and

later an additional doctor came to Fouquier-Tinville with a recommendation from Robespierre who suggested his employment by the Tribunal.[52] He was retained. The early staff of the Tribunal was thus built up in a rather halting manner. By the middle of May its total personnel was approximately forty. Of this number fourteen—four judges and ten jurors—made up the bench and jury and about twenty-five dealt with the administrative and clerical services. It was a modest beginning and would soon become more pretentious.

During May, June, and August the Convention made some changes in the personnel of the Tribunal.[53] On May 30, in an effort to increase the number of judges to five the Convention named one new judge and four substitutes.[54] Three of the five had had previous experience as judges and a fourth had legal experience. Only one of the five, Ardouin, accepted, however, and since Des Madeleines withdrew as the new judge was added, the Tribunal was not at all strengthened in numbers and not appreciably improved in ability.[55]

An attempt to fulfill the intention of the Convention and supply the Tribunal with a jury drawn from all the departments of France was made on June 8, 1793, when the result of the Convention's vote was made known by the publication of the following list:[56]

NAME[57]	RESIDENCE[58]	INDICATION OF STATUS
Brichet[a]	Sarthe	Justice of the peace
Lacrampe[a]	Hautes-Pyrénées	Administrator of the department

suppositious pregnancies. Several interesting instances are discussed in Dr. Max Billard, *Les femmes enceintes devant le Tribunal révolutionnaire d'après des documents inédits* (Paris, 1911).

[52] Robespierre to Fouquier-Tinville, May 10, 1793. This letter pointed out the talents and patriotism of Thery and recommended him for the post of doctor of the Tribunal. In the hand of Montané, president of the Tribunal, one finds two brief notes added to the letter: "pris en très grande considération" and "accepté comme médecin du tribunal le 11 juin." *A.N.*, W502.

[53] Many of these changes may be traced in the "Registre des audiences du tribunal criminel extraordinaire." From time to time the "registres"—there are three of them—mention the administration of the oath of office to some new appointee. The "registres" may be found in *ibid.*, W531 and 532.

[54] *A.P.*, LXV, 610.

[55] On July 31, Fabricius asserted that the tribunal had 3 judges, 20 jurors, a public accusator and 3 assistants. *A.N.*, BB^{30}25.

[56] The list is from *A.P.*, LXVI, 171, with additional information as indicated by symbols. Notification went from Gohier to the new jurors on June 12. *A.N.*, BB^{30}24. It is interesting to note that Lagorosse, through a faulty address, did not receive his notification upon first dispatch; that Couturier was arrested in Lyon on his way to Paris and was released only on the intercession of some citizens of Grenoble; and that Lacrampe served briefly but resigned on September 6 to join the forces on the frontier. *Ibid.*, BB^{30}25.

[57] *a* indicates that the nominee refused to take office. Letters of refusal from the appointee to either the minister of justice or the president of the Convention may be found in *ibid.*, BB^{30}25. Acceptances may be found in *ibid.*

b indicates subsequent resignations from the Tribunal, *ibid.*

[58] *c* refers to a department which was drawn by lot to supply a juror but for which no nomination was made.

D'Herbes-St-Pons	Basses-Alpes	Notary
Tramont[a]	Corrèze	Municipal officer
Fualdès[b]	Aveyron	Administrator of the department
Couturier	Isère	Public prosecutor
Lagorosse[b]	Charente-Inférieure	District attorney
Pages	Lozère	District attorney
La Groiverend[a]	Ille-et-Vilaine	Attorney for a commune
Lapeyre[a]	Gironde	Surgeon; member of a popular commission
.....	Mayenne-et-Loire[c]	.....
Scion	Eure-et-Loire	Administrator of the department

SUBSTITUTES

Blanc[a]	Ain	Judge of district tribunal
Nouvot[a]	Haute-Saône	Judge of district tribunal
Thoumin	Mayenne	District attorney
Guillier	Nièvre	Vice president of the departmental directory

These new appointments give opportunity for several interesting observations. There is an obvious increase in the proportion of acceptances which would reflect a mounting belief in the importance of the Tribunal's work and a corresponding increase in the prestige of its service. It is also clear that the June appointments came to men who possessed much more in the way of administrative and legal experience. The most striking and significant feature of the new jury, however, is the fact that refusals of service and resignations from service when considered geographically show a marked concentration in the west of France. For instance, six jurors were to have been chosen from the block of departments beginning with the Gironde and running north to Ile-et-Vilaine. This was the region in which Girondin strength and opposition to the political views of the Mountain were centered; this, according to Greer, was the area which later became the great center of local executions for counter-revolutionary activity.[59] One department of this area, that of Mayenne-et-Loire, did not put up a candidate; in two departments, the Gironde and the Ile-et-Vilaine, the nominees refused to serve; while candidates from two others, the Sarthe and the Charente-Inférieure, accepted at first but later resigned. Only one department in this region, Mayenne, sent a juror who was seemingly content with his work. In the March debates in the Convention it had been obvious that the Tribunal was most ardently desired by the Mountain, though not strenuously opposed by the Girondins. The acceptances and rejection of the June list makes it quite likely that France had come

[59] Donald Greer, *The Incidence of the Terror during the French Revolution: a Statistical Study* ("Harvard Historical Monographs"; Cambridge, 1935), map entitled "the incidence of executions," p. [v].

to recognize the essential party character of the Tribunal and its implied threat to the Girondins who were by now completely routed from the Convention and on the defensive in the country. This opinion is marked clearly in the letter of refusal by Lapeyre, of the Gironde, who charged that the Tribunal had fallen under the murderous influence of a criminal faction.[60] So far the refusal of those out of sympathy with the Tribunal to accept office—a sort of automatic purge—had strengthened the Jacobin predominance in its membership, but with the opening of the second phase of the Tribunal's history in September a more deliberate policy of selection was to reduce any possibility of *contre-révolutionnaires* amongst the judges or the jurors.

One more step remained, however, before the thoroughgoing reorganization of September 26, 1793. On July 30, the Convention, alarmed by the murder of Marat and the slowness of the Tribunal,[61] decided on the recommendation of the Committee of Public Safety to divide the Tribunal into sections.[62] On the following day this legislation was made permissive rather than mandatory and the Tribunal was given additional personnel in anticipation of its multiple action. Since the number of judges in service was increased to ten, the Convention was confronted with the task of finding seven new ones, for only Foucault, Rousillon and Ardouin were at this time actually in service. On August 3 the following list was approved:[63]

NAME[64]	RESIDENCE	INDICATION OF STATUS
Dobsen[65]	Paris	National commissioner to the tribunal of Paris, sixth arrondissement; director of jury of accusation of tribunal of 17 August[b]
Coffinhal	Paris	National commissioner to the tribunal of Paris, second arrondissement; judge on tribunal of 17 August[b]
Gribauvault	Paris	Secretary to Fouquier-Tinville
Petit Dauterive	Paris	Judge of the tribunal of Paris, fifth arrondissement.

[60] Lapeyre to Gohier, June 18, 1793, *A.N.*, BB[30]25.
[61] Compardon, *op. cit.*, I, 89-90.
[62] *Supra*, p. 17.
[63] The list is from *A.P.*, LXX, 179-180, with additional information as indicated.
[64] *a* marks refusals. Again the correspondence is to be found in *A.N.*, BB[30]25. It is worth while pointing out that the name Lullier is a mistake; the correct name is Liendon. *b* marks information from Montarlot, *op. cit.*
[65] While most of those who served on the Tribunal will always be encompassed in the haze that surrounds minor figures, something of a prototype may be found in Claude-Emmanuel Dobsen. In background, experience, and temperament Dobsen can be considered a representative figure. Those who might find further reflection upon this interesting can bring Dobsen into sharper relief by seeing Gustave Laurent's article on Dobsen in *Annales historiques de la Révolution française*, vol. XV, 2-11.

Deliège	Marne	President of the district tribunal of St. Menehould; former deputy of the Marne to Legislative Assembly[b]
Dubin[a]	Paris	Judge of the tribunal of the first arrondissement
Scellier	Paris	Director of the grand jury, tribunal of the second arrondissement; former national commissioner to the tribunal of 17 August[b]

SUBSTITUTES

Soullier[a] (Liendon)	Paris	Director of the grand jury, tribunal of the second arrondissement
Herman	Pas-de-Calais	President of the tribunal of the department
Brigot[a]	Marne	National commissioner at Reims

The emphasis upon legal experience is clear, but there is greater significance, perhaps, in the increasing reliance upon Paris as the center for personnel. The advantages were obvious: residents of the city were well known, the correctness of their views, should there be any doubt, could be quickly ascertained, and they were immediately available. Another important development was the fact that three of the new judges—Dobsen, Coffinhal, and Scellier—were former members of the extraordinary tribunal of August 17, 1792 and as such had been colleagues of Fouquier-Tinville.[66] The rallying of former members of that tribunal about the Revolutionary Tribunal brought into its fold such talent and experience in "revolutionary" justice as the country afforded. It is also significant that many of the leading figures of the Tribunal came from the ordinary courts and thus exerted a large measure of influence from those courts upon the Revolutionary Tribunal.[67]

The dismissal of Montané[68] and the appearance of the new judges leave little doubt that the bench was now in complete agreement with the Mountain. As a further guarantee of that sympathy on August 28, Herman, an intimate friend of Robespierre, became president of the Tribunal. The Tribunal, by function, was compelled to be in political harmony with the Jacobin government; that relationship was by now well established.

The first five months had been characterized by great difficulty in securing a personnel adequate to the Tribunal's service. There had been thus far no changes in the duties of the various members of the Tribunal nor had the procedure been altered in any way. The most important fact of this period seems to be a shift from Montagnard influence to Mon-

[66] H. Wallon, *Histoire du tribunal révolutionnaire de Paris*, I, appendix VI, 452-53.
[67] Roblot, *op. cit.*, p. 4.
[68] *Supra*, pp. 18 and 28.

tagnard domination. In general the Convention seemed content with its handiwork and with one exception there was little official criticism of the Tribunal. That criticism contended that the Tribunal was too slow. Since its inception the greatest number of death penalties in any one month was the sixteen of July.[69] To the ardent patriot who viewed the counter-revolutionnaries as too numerous to reckon, this seemed a meagre harvest for the sharp blade of the guillotine. As a result of the *Enragés'* demonstrations in September, an effort was made to remedy this defect by the decree that the personnel of the Tribunal should be approximately doubled and that it should sit in four sections. It should be noted, then, that the first attempt to secure the speed which the revolutionary circumstances demanded was of a conventional nature; modifications in the forms of procedure did not come until no other solution seemed possible.[70]

New lists had to be prepared at once for the reorganized Tribunal. As a mark of the new dispensation in revolutionary politics these were now drawn up by the Committees of Public Safety and General Security.[71] The residence of this virtual power of appointment in the two committees was but the beginning of a wide influence they were to exercise over the operations of the Tribunal. It should be noticed as well that the reorganization of the Tribunal and the new method for selecting its members followed closely after the popular demonstrations of early September through which Billaud-Varenne and Collot d' Herbois were added to the Committee of Public Safety, the revolutionary army was created, and the so-called law of forty sous was passed to stimulate the enthusiasm of hard-pinched patriots. An interval of three weeks—September 5 to September 26—intervened between the authorization for a division of the Tribunal and the approval of the list for nineteen judges, a public prosecutor and five assistants, and sixty jurors.[72] The

[69] *Liste des victimes du tribunal révolutionnaire à Paris* (Paris, 1911), pp. 1-5.

[70] In a letter of September 10, 1793, to the President of the Convention, Fouquier-Tinville attempts, while pointing out the impossibility of using four sections simultaneously, to explain the slowness of the Tribunal's work. He pointed out the shortage of jurors and judges and contended that a third of the existing cases could not be tried because witnesses, in the army or engaged in important work, could not be summoned. In still other cases the Tribunal possessed in its *parquet* only copies of the documentary evidence supplied by the indicting authorities; the law required the originals of such documents. Salaries and clerical assistance were inadequate to supply the needed services for four sections. All in all the letter revealed a public prosecutor with commendable regard for the procedural niceties and a desire not to sacrifice anything to haste. (Fouquier-Tinville to the President of the Convention *A.N.*, DIII 267-268.)

[71] *Moniteur,* September 30, 1793, XVII, 774-775.

[72] *Ibid.,* September was a troubled month for the Tribunal. As early as July 19 Fouquier-Tinville had requested increased personnel from the Convention promising in return an acceleration of pace. On July 30 two sections were authorized but fear that the unity of the Tribunal might be broken led to a hasty modification which permitted the Tribunal to divide itself if it chose so to do. From September 14 the Tribunal sat in two sections. Also during this period

judges were Herman, Scellier, Dobsen, Coffinhal, Foucault, and Deliège (all appearing on the lists of judges given above) and the following:[73]

NAME[74]	RESIDENCE[75]	INDICATION OF STATUS[76]
Dumas	Jura	Lawyer[c]
Brulé[a]	Paris	Judge of the tribunal of the fifth arrondissement but on service for past 6 months with army of the Vendée
Bravet	Haute-Alpes	Judge of the tribunal of the department
Subleyras	Gard	Clerk of a district tribunal
Lefetz[a]	Pas-de-Calais[b]	District administrator
Donzé-Verteuil	.....	Assistant to Fouquier-Tinville
Lanne	Pas-de-Calais	Prosecutor of the district of St. Pol
Ragmey	Jura[b]	Lawyer
Masson	.....	Assistant clerk of the Revolutionary Tribunal
Denizot	Paris	Judge of the tribunal of the fifth arrondissement
Harny	Nord[b]	Author of *La liberté conquise*
David	.....	Substitute deputy to National Convention; judge of district tribunal
Maire	Paris	Judge of the tribunal of the first arrondissement.

More important than the new men, all of whom were from Paris or departments to the north or south, was the fact that the Tribunal was now keeping a rather large nucleus of old members and to a slight extent was rewarding members in minor offices with promotions. This policy of retention and reward enabled the Tribunal to sort its personnel and discard those who did not possess the required zeal and energy. More than that it made it possible to develop the Tribunal into a continuing institution, adjusted to the rigorous demands for a revolutionary justice and tempered by experience into a reliable weapon of the government.

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several members were added. All of this, however, was quickly submerged by the great reorganization of September, 1793. See Wallon, *op. cit.* I, 260-264, and 290-295.

[73] The list is from *A.P.*, LXXV, 177-178, with additional information as indicated.

[74] *a* indicates persons who refused to serve. There is no indication of whether Lanne or Harny accepted, but the others were either on the bench or wrote letters of acceptance. These letters, dated during the first half of October, 1793, can be found in *A.N.*, BB[3]024. Of interest, also, is a letter from Herman to the Minister of Justice, 4 brumaire an II, telling him that the sections were in activity. Furthermore while all of the judges were needed, four had not accepted: Brulé, Lefetz and two others (these presumably were Lanne and Harny). *Ibid.*

[75] *b* indicates information concerning departments secured from Joanne, *op. cit.*, when the list gave the district or commune of residence or occupation.

[76] *c* indicates information from Campardon, *op. cit.*, I, 100-101.

The new jury, now numbering sixty, had (in addition to Chrétien, Le Roy, Thoumin, Ganney, Jourdeuil, and Brochet listed on previous juries above) the following composition:[77]

NAME	RESIDENCE	INDICATION OF STATUS[78]
Antonelle	Bouche-du-Rhône	Ci-devant marquis;[a] former deputy of the Legislative Assemby
Benoitray	Paris (Muséum)	Tailor[b]
Servière	Paris (Muséum)	Shoe-maker
Fauvetty[79]	Gard	Sent by primary assembly of the department
Lumière	Paris (Muséum)	Member of a revolutionary committee; musician[b]
Fauvel	Paris (Panthéon)	Independent means
Auvray	Paris (Mail)	State coach employee
Fainot	Paris	Elector
Gauthier	Eure-et-Loire	District administrator; carpenter
Renard[80]	Paris (Contrat Social)	Member of commune
Renaudin	Paris (Gardes-Françaises)	Lute-maker
Meyère	Gard	Member of the director of the department
Châtelet	Paris (Picques)	Painter
Clémence	Paris	Clerk at the bureau of assignats[b]
Gérard	Paris	Artist
Fiévé	Paris (Muséum)	Member of a revolutionary committee
Petit-Treissin	Marseille	.....
Trinchard	Paris (Muséum)	Carpenter
Topino-Lebrun	Paris (Muséum)	Artist
Pyol	Paris	Member of a committee of surveillance
Girard	Paris	Goldsmith
Souberbiel	Paris	Surgeon; chief doctor of the École de Mars (Named by Robespierre[b])

[77] The list is from the *Moniteur,* September 30, 1793, XVII, 774-775.

[78] *a* indicates information from Léo Domenget, *op. cit.,* p. 58. Domenget further contends that Antonelle preferred to be a juror over being mayor of Paris. *b* Montarlot, *op. cit.,* pp. 41-45.

[79] Sometime in 1793—presumably on this occasion—Vouland, a member of the Committee of General Security, wrote to Robespierre requesting that Fauvetty be added to the list of jurors. See *A.N.,* F4436[A], Plaque 3.

[80] There was an amusing confusion concerning Renard, or rather two Renards. The one chosen is listed above but another Renard wrote the Minister of Justice, apparently on October 10, and insisted that the Renard mentioned, who had been placed on the list by Leonard Bourdon, no longer lived in the section Contrat Social. He was certain therefore that he was the Renard who should have the appointment and furthermore he had the assurance of Prieur, one of the jurors (incidentally of the same section, Poissonnière), that he had given the second Renard's name to the Committee of Public Safety. It is not known how the conflict resolved itself but apparently the list was not prepared under rigorous conditions. See *ibid.,* BB[30]24.

Presselin	Paris	Tailor
Deydier	Paris	Locksmith
Sambat	.....	Painter[b]
Villate	Paris	Former professor at Limoges[b]
Klispis	Paris	Jeweler
Laport	Mayenne	District administrator
Garnier	Paris (Montagne)	.....
Martin	Paris	Surgeon
Guermuer	Finistère	.....
Dufour	Paris	.....
Mercier	Paris	.....
Aubry	Paris (Quatre Nations)	Tailor
Compagne	Paris	Goldsmith
Billon	Paris	Joiner
Gimond	Paris (Marches)	Tailor
Baron	Paris	Hatter
Prieur	Paris	Artist
Lohier	Paris (Théâtre-Français)	Spice Merchant
Duplay	Paris	Joiner
Devèze	Paris (République)	Carpenter and elector; member of the general council of the commune of Paris[b]
Boissot	Paris	Elector
Maupin	Paris	Elector
Camus	Paris	Artist[b]
Aigoin	Hérault	Later to be commissioner of the national treasury[b]
Picard	Paris (Tuilleries)	Former president of his section
Nicolas	Paris	Printer (to become official printer to the Tribunal)
Dumon	Lot	Laborer
Besson	Haute-Marne	Sent by assembly of his department
Gravier	Rhône	Vinegar merchant
Payan	Drôme	Employee of the Committee of Public Safety
Gillibert	Haute-Garonne	Merchant
Beçu	Nord	Doctor

The most obvious characteristic of these jurors was the identification which most of them had with Paris and the fact that so many of them were artisans, artists of one sort or other, or else were small trades people. There is here some confirmation for the charge that more and more as time went on the Tribunal became an instrument of Paris in its struggle against the provinces, and some support for the suspicion that the Committees had made their selections from the lower middle class and workers as an assurance that the Tribunal would be energetic against

the aristocrats. Whether or not the Tribunal was deliberately intended to participate in a class war, its new personnel from the standpoint of class background was far better suited to that purpose than had been earlier judges and jurors. It is also of interest that Duplay, Deydier, Souberbiel, Renaudin, Châtelet, Girard, and Gravier were associated with Robespierre and, if Lenôtre is to be trusted,[81] owed their appointments to favoritism. The same sort of influence is alleged to account for the presence of four of the several jurors from the section of the Muséum, the home of Lescot-Fleuriot.[82] There is also the suggestion that while the two Committees were considering their recommendations, Fouquier-Tinville and Lescot-Fleuriot had furnished them information in which they had indicated their preferences for the new jury.[83] There is no reason to believe that the group, regardless of influences and methods of selection, represented anything other than selected men of loyalty to revolutionary principles and a capacity for quick and ruthless decision. To suppose less would be to assume that the authorities did not understand the true nature and function of the Tribunal as late as September, 1793. It is also notable that while every man on the list did not accept his new employment only a few refused. The Tribunal was no longer an experiment and a certain element undoubtedly saw in the Tribunal an attractive opportunity for service to the revolution. Some who did accept moved on to other rewards.[84]

The staff attached to the public prosecutor was expanded to serve the four sections of the Tribunal. Lescot-Fleuriot remained from the original assistants; Gribauvault, the former secretary of Fouquier-Tinville and for a short time a judge of the Tribunal, returned to his former master as an assistant prosecutor; and Royer, Naulin, and Liendon were added.[85] It is to be presumed that the Tribunal was also successful in expanding its clerical and auxiliary forces to the limits authorized by the decrees of September 5 and 14. These permitted a force of eight assistants, eight copying clerks,[86] eight bailiffs, and six office boys.[87]

[81] Lenôtre, *op. cit.*, p. 96. Lenôtre has been attracted by the sensational aspects of the Tribunal and his work achieves a vividness that is in some measure based upon error and distortion.

[82] *Ibid.*

[83] Buchez et Roux, *op. cit.*, XXXIV, 467. This is from the evidence given by Fabricius at the trial of Fouquier-Tinville.

[84] Aigoin, for instance, became commissioner to the national treasury (Aulard, *Recueil . . . salut public,* X, 3) while Clémence was transferred to a similar post (*ibid.*, VIII, 162). Ragmey and Verteuil were both lent to the revolutionary tribunal at Brest (*ibid.*, XI, 329-330).

[85] *Moniteur,* September 30, 1793, XVII, 774-775. Royer was a former vicar and a constitutional curé; Naulin was a lawyer and a former judge of the tribunal of 17 August (Montarlot, *op. cit.*, p. 37); while Liendon had been director of the *jury d'accusation* of the tribunal of the second arrondissement (*supra*, p. 39).

[86] *J.D.D.*, September 5, 1793, No. 352, p. 65.

[87] On September 14 a decree of the Convention regulated the application of the earlier decree of September 5 which authorized the division into four sections. This later decree also increased the *huissiers* from six to eight and the *garçons de bureau* from four to six (*A.N.*, W508).

The personnel of the Tribunal now exceeded one hundred.

The reorganization of September, bringing the Tribunal into its second phase, fixed the form of the Tribunal until the law of 22 Prairial (June 10, 1794). Since the first trial, five months before in early April, there had been no changes in procedure nor had there been a creation of new offices or a change in the functions of the old. The entire attempt of the Convention to form an instrument of revolutionary justice had been concentrated upon an elimination of the lukewarm from the Tribunal, and in an expansion of personnel. It was hoped that by multiplying the parts the Tribunal would be able to care for the increasing numbers awaiting trial. The hope was extravagant from the beginning and became entirely illusory with the enactment of the Law of Suspects (September 17, 1793),[88] which filled the prisons with persons who were detained merely because they fell into certain specified categories. Between September, 1793, and June, 1794, the customary procedure began to give way under the pressure of numbers, and with changes in procedure (which we will describe below)[89] came changes in function.

The reorganization of June 10, 1794, introducing the third and most important phase of the Tribunal's existence, made it necessary that the Convention again consider the question of personnel. The number of judges was reduced to sixteen and in addition to Dumas, Coffinhal, Scellier, Foucault, Verteuil, Bravet, Harny, Ragmey, and Maire, who were reappointed and are given in the lists above, the following replacements were approved:[90]

NAME	RESIDENCE[91]	INDICATION OF STATUS
Barbier	Morbihan	.....
Garnier-Launay	Paris	.....
Paillet	Saône-et-Loire[a]	Professor of rhetoric at Chalôns
Naulin	.....	Lawyer; former judge of the tribunal of 17 August
Laporte	Indre-et-Loire[a]	Member of the military commission at Tours
Felix	Indre-et-Loire[a]	Member of the military commission at Tours
Lohier	Paris	Member of the jury of the Revolutionary Tribunal

The list of jurors retained twenty-nine (Renaudin, Benoitray, Fauvetty, Lumière, Fainot, Gauthier, Meyère, Châtelet, Petit-Treissin,

[88] *Moniteur,* September 19, 1793, XVII, 680-681.

[89] See *infra,* pp. 116-135.

[90] The list is from the *Moniteur,* June 12, 1794, XX, 696, with additional information as indicated.

[91] *a* indicates information from Joanne concerning department when district or commune was given in the list.

Trinchard, Topino-Lebrun, Pyol, Girard, Presselin, Deydier, Villate, Leroy (Dix-Août), Laporte, Ganney, Brochet, Aubry, Gimond, Prieur, Duplay, Devèze, Boissot, Nicolas, Gravier, and Billon)[92] of those already serving, converted one judge, Subleyras, into a juror, and added the following twenty men to bring the number up to fifty:[93]

NAME	RESIDENCE[94]	INDICATION OF STATUS
Laveyron	Seine[a]	Farmer
Fillon	Rhône[a]	Manufacturer
Potherel	Saône-et-Loire	.....
Musson	Rhône[a]	Shoemaker
Marhel	.....	Artist
Laurent	Paris (Picques)	Member of revolutionary committee
Moulin	Paris (République)	Wig-maker
Villers	Paris	.....
Deprau	Paris	Artist
Emmery	Rhône-et-Loire	Hat merchant
Lafontaine	Paris (Muséum)	.....
Blachol	Pyrénées-Orientales	Paymaster in the army
Debeaux	Drôme[a]	Clerk of the district tribunal
Gouillur	Pas-de-Calais	District administrator
Dereys	Paris (Montagne)	Member of a revolutionary committee
Hannoyer	Morbihan[a]	Member of a revolutionary committee
Brutins	Paris (République)	Commissioner of the Committee of Public Safety of the section of the Republique
Pechet	Paris	.....
Nierguin	Vosges	Member of a committee of surveillance
Duquenel	Morbihan[a]	Member of a revolutionary committee

The Tribunal as constituted in June 1794, no doubt represented the most "advanced" combination of bench and jury that it had yet been possible—or necessary—to form. The judges and jurors had been through another winnowing process and only those considered to be *solide* were retained. The final selection was in the hands of the Committee of Public Safety, which no doubt acted upon information furnished by the Tribunal itself as well as outside sources. The contention of Fouquier-Tinville, however, that Robespierre was responsible for the

[92] Le Roy, Ganney, and Brochet were members of the original jury of March 13, 1793.

[93] List from the *Moniteur,* June 12, 1794, XX, 696.

[94] *a* indicates information from Joanne when district or commune only was given in the list.

rejection of those who were not asked to continue cannot be subsantiated.[95] It is also noteworthy that the new jury had four citizens from Lyon, where the counter-revolution had now been overthrown, and that at least four more of the new members had belonged to the revolutionary committees whose principal task it was to suppress counter-revolutionary activities.

The effect of this law in addition to the gradual changes that had been appearing in the operations of the Tribunal was to increase disproportionately the burdens of the prosecutor's office. No matter how brief the appearance of the accused in the actual trial, there was still a tendency for the amount of clerical work to increase with the number of defendants. As we shall see later the brevity of the trial led to a growing dependence upon the records of the prosecutor's office. The new law did not increase the number of assistants to Fouquier-Tinville beyond the existing five. Several requests, however, had come from Fouquier-Tinville for additions to the clerical staff and for augmentation of salary. In December, 1793, the Convention had approved the addition of two employees to Fouquier's office and the expenditure of ten thousand four hundred livres a month in salaries.[96] In March and April additional requests were made and on May 3 the Committee of Public Safety heeded a further supplication by approving the addition of four new employees for the *parquet*. This decision also authorized the public prosecutor to bring to ten the copyist in the *greffe* and to increase the *huissiers* to the same number.[97] The actual number employed in the prosecutor's office at any particular date after the Tribunal was well under way would be difficult to calculate. There was evidently much coming and going. Clerks, office boys, and bailiffs alone by the spring of 1794 must have numbered fifty.

The effects of the law of 22 Prairial, year II (June 10, 1794) were immediately felt. During the first ten days of June the daily average of convictions had been seventeen; during the remainder of June this average jumped to twenty-seven and during July to thirty.[98] At this point the Tribunal reached its full stature as the censor and avenger of the revolution, but the moot question as to whether the energy of this mechanism was loosed primarily for the political, or for the social and economic revolution will have to await a latter more appropriate discussion.

[95] Lenôtre (p. 170, no. 1) quotes a document in the hand of Fouquier-Tinville which lists the judges and jurors rejected by Robespierre. The document is open to serious question, however, since it was not drawn up until, significantly enough, 14 Thermidor (August 1, 1794). It is also rather singular that Lohier, to whom Robespierre is alleged to have objected as a juror, should have become a judge on the June, 1794, Tribunal.

[96] *A.N.*, W509. This was in answer to a request by Fouquier-Tinville to be found in *ibid.*, C283, No. 801.

[97] Aulard, *Recueil . . . salut public*, XIII, 235.

[98] *Liste des victimes . . .*, pp. 63-70, 70-131.

The Tribunal survived in the full strength of its activity for only fifty days. On 12 Thermidor, year II (July 30, 1794), three days after the fall of Robespierre, the last large "batch" of convicted persons was executed. Eleven days later the Tribunal underwent a complete reorganization. On August 10—the beginning of the fourth phase of the Tribunal's history—the Convention upon the recommendation of the Committees of Public Safety and General Security approved the following list of judges:[99]

NAME	RESIDENCE[100]	INDICATION OF STATUS[101]
Bravet	Hautes-Alpes	Judge of Revolutionary Tribunal
Deliège	Marne	President of the tribunal of Montagne-sur-Aisne and former judge of the Revolutionary Tribunal
Leriget	Chareute-Inférieure	.....
Rudler	Basses-Alpes[a]	Judge at Colmar
Abrial	Haute-Loire[a]	Judge at Puy
Bido	Cher[a]	President of the tribunal of the district of Sancoins
Denizot	Paris	Former judge of the Revolutionary Tribunal
Dejoux	Cantal[a]	.....
Dumoulin	Nord[a]	President of the district of Douai
Forestier	Yonne	Justice of the peace
Godinet	Haute-Marne	Director of the department
Gau	Pas-de-Calais[a]	National commissioner of a district tribunal
Gourmeaux	Ardennes	Former judge
Ardouin	.....	Former judge of the Revolutionary Tribunal
Joly	Haute-Saône	*Procureur-général-syndic*
Lafond	Creuse[a]	Judge of the tribunal of the district of La Souterraine
Lavallée	Doubs[a]	Municipal officer
Laplante	Doubs[a]	President of a district tribunal
Maire	Paris	Judge of the Revolutionary Tribunal
Meyère	Gard	Former juror of the Revolutionary Tribunal
Perrin	Bouches-du-Rhône[a]	Judge of a district tribunal
Poulnot	Haute-Saône	Substitute judge of a district tribunal
Savary	Marne-et-Loire	President of the tribunal at Cholet[b]

[99] *Moniteur,* August 14, 1794, XXI, 466 with additional information as indicated.

[100] *a* denotes information concerning departments found in Joanne, when name of district or commune was given.

[101] *b* indicates information from Robinet, Robert, and Le Chaplain, II, 740.

The appointment as judges of such a number—the largest thus far—indicated clearly the intention of the Convention to continue the Tribunal in sections and the belief of the newly emboldened law-makers that the cases would continue to be numerous. The judges themselves came with about the same experience and from about the same previous appointments that had characterized the benches of September 26 and June 10. Former members of the Tribunal who were reappointed came as a rule from the Tribunal of the earlier days although two had served through the 22 Prairial. The new list also shows a disposition to break down the predominance of Paris and draw again from the departments, in this case especially from the north and the south. This anxiety to restore a degree of departmental balance could easily have been a result of the long fear of the centralization of power about and in Paris. This new bench was to observe the procedure of the Tribunal's first few months. In fact the reorganization seemed designed to recapture the temper and spirit of that earlier period.

The new jury evidenced the same trends. There was a marked disposition to draw from outside Paris and in general the men selected represented a little more in the way of position and administrative experience than had their immediate predecessors. Those appointed were the following:[102]

NAME	RESIDENCE[103]	INDICATION OF STATUS
Paquin	.....	Former clerk of the Committee of General Security
Nadeau	Charente-Inférieure	Clerk of the district
Dery	Loiret[a]	.....
Cherel	.....	.....
Beaufils *jeune*	Nièvre	Former administrator of Nièvre
Saulnier	Paris	.....
Dumas	Paris	Engineer
Métivié	Paris	Judge of the tribunal of the fifth arrondissement
Royalle	Paris	.....
Bonnetier	Paris	.....
Delrautteau	Paris	.....
Legras	Paris	.....
Redon	Vaucluse	.....
Labroux	Paris	.....
Poux	Aveyron	.....
Dordelu	Meuse	Pharmacist
Sambat	.....	Juror of the Revolutionary Tribunal

[102] List from the *Moniteur,* August 14, 1794, XXI, 466-467 with additional information as indicated.

[103] *a* denotes information from Joanne where commune or district of residence was given in the list.

Les Bazeilles	Marne[a]	Mayor
Mattey	.....	.....
Saturnin-Rivoire	.....	.....
Aubert	Var	Administrator of the department
Cateux	Oise	.....
Dutil	Paris	Member of a revolutionary committee
Magendy	Paris	.....
Prat *fils*	Ardèche	Farmer
Nantil	Meurthe-et-Moselle[a]	.....
Capella	.....	Justice of the peace
Belhoste	Seine-Inférieure	Administrator of the department
Raimbaut	Côte d'Or	Administrator of the department
Boule	Corrèze	Inn-keeper
Lecour	Manche	Clerk of an administrator of a district
Paillet	Saône-et-Loire	Judge of Revolutionary Tribunal
Maupin	Seine-et-Oise[a]	Architect
Duval	Paris	Wig-maker
Domer	.....	Cabinet-maker
Petit-Treissin	Paris	Former juror of the Revolutionary Tribunal
Topino-Lebrun	Paris	Artist; former juror of the Revolutionary Tribunal
Jolly	Meuse[a]	.....
Guillon	Loire-et-Cher[a]	Municipal officer
Pérès	.....	Farmer
Reynes	Tarn	.....
Devère	Paris	Member of the general council of Paris
Salmon	Nord[a]	Physician
Lamothe	Basses-Pyrénées	.....
Vaillant *l'aîné*	Côte-d'Or	Archivist
Roussel *l'aîné*	.....	Clerk for the conservation of the property of the former civil list
Aizelin	Côte-d'Or[a]	District clerk
Lebreton	Paris	Tailor
Bazaine	.....	Clerk at the bureau of the commission of finances
Quichaud-Lion	Charente	Administrator of the department
Forceville	Paris	Army officer
Ramboure *père*	Doubs[a]	District administrator
Libre (formerly Leroy)	Paris	Army officer, former marquis, and former juror of the Revolutionary Tribunal
Dubuisson	Haute-Saône	District judge
Tourette	Charente	Administrator of the department
Delapierre	Seine-et-Oise[a]	.....

Presselin	Paris	Tailor; former juror of the revolutionary tribunal
Bouret	Paris	Clock-maker
Duplais	Charente-Inférieure	Justice of the peace

The office of the public prosecutor received the most thoroughgoing reform. Le Blois, the public prosecutor of the criminal tribunal of the department of the Deux-Sèvres, replaced Fouquier-Tinville, who was now under arrest.[104] The five assistants, all new, were Bordet (Moselle), Couturier (Isère), a member of the jury of June 8, which had been elected from the departments drawn by lot, Granger (Nord), Petit (Paris) and Semblauzel (Lot-et-Garonne). The clerks and office help seemed for the most part unchanged,[105] but Fabricius, the friend of Danton, who, on Danton's fall had been replaced by Lecrivain, was now restored to his old post of chief *greffier* of the Tribunal.

Regardless of the immediate intentions of the Convention to keep the Tribunal in full force, it was rapidly running down. The overthrow of Robespierre had brought a change in revolutionary levels and the tautness that had been characteristic of both men and ideas was dissipated. The Tribunal was not a machine that could operate at the lower pressure now induced. The last revision of the Tribunal on 8 Nivôse, year III (December 28, 1794) and the approval of the new lists at the beginning of the new year (pre-revolutionary reckoning) were little more than formalities. The new judges were:[106]

NAME	RESIDENCE[107]	INDICATION OF STATUS
Mouricault	Paris	National commissioner, tribunal of the third arrondissement
Liger	Loiret	President of the criminal tribunal of the department
Prévôt	Puy-de-Dôme[a]	President of the criminal tribunal of the department
Mazerat	Aisne[a]	Ex-commissioner of the tribunal of the district of Montron
Godeau	Indre	National agent
Daubagne	Paris	Former judge of the tribunal of the district of Noyon
Favard	Puy-de-Dôme	National commissioner of a district tribunal
Godard	Seine-et-Marne	Administrator of the department

[104] This was by a decree of July 31, 1794 of the National Convention. *Moniteur*, August 2, 1794, XXI, 368.

[105] *A.N.*, W91-1. As late as 1 Vendemaire, year III (September 22, 1794) nine of the old employees of the parquet were still there.

[106] The list is from the *Moniteur*, January 5, 1795, XXIII, 123.

[107] *a* denotes departments found in Joanne when district or commune of residence was given in the list.

Devillas	Cantal[a]	President of a district tribunal
Gaillard-Lécard	Aisne	President of the criminal tribunal of the department
Graud	Hautes-Alpes[a]	Former president of the criminal tribunal
Debregeas	Dordogne	Public prosecutor of the criminal tribunal

The new jurors for the same Tribunal were as follows:[108]

NAME	RESIDENCE[109]	INDICATION OF STATUS
Bouyques	Lot	Former solicitor
Pers, *le jeune*	Pas-de-Calais[a]	Secretary of the district tribunal
Adam, *l'aîné*	Haute-Savoie[a]	Former judge of military court
Ponterie-Escot	Dordogne[a]	Mayor of a commune
Hélouin	Calvados[a]	Physician; justice of the peace
Dubus	Oise	Tailor
Husson	Meuse[a]	Cabinet-maker; judge of a district tribunal
Reichs, *l'aîné*	Basses-Alpes[a]	Member of the directory of a district
Brunet	Paris	Official counsel for the defense
Ouri	Manche[a]	Justice of the peace
Verdusan	Hautes-Pyrénées[a]	.....
Gabriel de Saint-Horrent	Creuse[a]	Judge of a district tribunal
Laporte	Lozère	Judge of a district tribunal
Vannier	.....	Chief of the directory of a district
Lerade	Oise[a]	Watch-maker
Tournier, *l'aîné*	Cantal[a]	Former administrator of a district
Bressaud	Haute-Saône[a]	.....
Vignalet	Basses-Pyrénées	Former president of a district tribunal
Rouit-Borel	Basses-Alpes[a]	Justice of the peace
Brillat	Ainse[a]	Merchant and farmer
Payrat	Ardèche	Mayor of Vernoux
Cadet	Meuse[a]	Official counsel for the defense
Perrault	Loire[a]	Notary
Rubat *fils*	Saône-et-Loire[a]	Member of a district tribunal
Tallairat	Haute-Loire[a]	National agent to a commune
Richard	.....	President of a district council
Lapeyre	Vaucluse	Assistant to a department administrator
Felorme	Paris	Civil commissioner
Gueroult	Paris	Former professor of rhetoric
Lebrun	Seine[a]	Official counsel for the defense

For the first time no former member of the Tribunal reappeared either as a judge or juror. The public prosecutor and his assistants were changed leaving Fabricius as the sole officer of any importance linking

[108] *Moniteur,* January 5, 1795, XXIII, 123-124.
[109] *a* indicates information from Joanne.

the Tribunal of its final stage with its earlier and more virile forms. The lists depended heavily upon a large number of departments and those called came as a rule from some subordinate employment of the state in the judicial and administrative service of the departments and districts. Socially the Tribunal became heavily weighted toward the "professional" civil servant of the post-Robespierrist government, a haven for the Thermidorean *fonctionnaire*. While of interest it cannot be considered a matter of importance. The long trial of Fouquier-Tinville—in whom, in a sense, the government offered a propitiative sacrifice for the sins of all—alone kept the Tribunal going. It had been but a lifeless form since early August 1794. Its abolition by the Convention on May 31, 1795 was but a formality.

CHAPTER III

THE NATIONAL AUTHORITIES

The Revolutionary Tribunal was but one of several revolutionary agencies. Since all were dedicated to the establishment of revolutionary principles in France, it was but natural that the operation of each should in some degree be reflected in the operations of the others. The Tribunal—in a sense the cap-stone of the revolutionary edifice—was the recipient of actions begun beyond its institutional confines but referred to it for determination in keeping with the requirements of the law. This close association would have been important had it meant merely that those who appeared before the Tribunal did so usually as the result of an impulse initiated at some other point in the frame-work of revolutionary governments. But there was more than this. Frequently those who came were accompanied by documents gathered and compiled by committees, or other tribunals, setting forth, at worst, a record heavy with the implications of guilt or, showing at best, a prudent precaution on the part of the committing agencies. There was scarcely an individual heard by the Tribunal who did not come marked with the prejudice created by an earlier trial or hearing. This fact is one of the most important considerations in describing the Tribunal's procedure or in evaluating the Tribunal's position in the revolutionary hierarchy of institutions or its services to the revolutionary cause. It is therefore essential that attention be paid to the activities of the many institutions of the Revolution that along with the Tribunal played some part, from beginning to end, in the administration of revolutionary justice.

The highest of these various authorities sending the objects of its fears and suspicions before the Tribunal was the National Convention itself. The establishment and various reorganizations of the Tribunal had, of course, been the work of the Convention directed for the most part, by its two major committees. This, however, did not end the Convention's concern with the Tribunal: periodically the Convention, by decree, furnished the Tribunal with cases—some of them among its most celebrated. The original intention had been that all persons sent before the Tribunal should go only on a formal accusation brought by the Convention itself.[1] On April 5—the day before the beginning of the first trial by the Tribunal—the Convention divested itself of most of this authority by impowering the public prosecutor on the denunciation of constituted authorities or of private citizens to arrest and try any-

[1] Law of March 10-11, 1793, sec. 1, articles ix, x, *J.D.D.*, No. 174, p. 136.

one charged with counter-revolutionary activities. This was subject to an important restriction, for Boyer-Fonfrède had conjured up for the Convention the frightful possibility that the public prosecutor might use the power of accepting accusations to involve members of the Convention itself in the toils of this new jurisdiction. With Conventionels might go ministers of the republic and its generals and France fall under the tyranny of the public prosecutor of the Revolutionary Tribunal. As an afterthought the Convention decreed the immunity of its members against the process of the Tribunal except on charges specifically advanced by the Convention itself; the same protection was hastily thrown around ministers and generals.[2] This reservation resulted in the necessity for a decree of the Convention itself when revolutionary justice was to fall within the charmed circle—which it did often enough. While all of the indictments by the Convention were by no means confined to this group most of the trials obviously political in nature did originate from charges levied by the Convention against its own members or those under its special protection.[3] In the case of the Dantonists the indictment itself, which was ordinarily drawn by the public prosecutor, was taken over intact from the accusations made by Amar and Saint-Just in their reports to the Convention.[4]

The Convention, however, did not restrict itself to accusations against those in high position, but on occasions lodged charges against individuals of a variety of distinctions. On May 26, 1793, for instance, a decree was passed for the arrest and dispatch to the Revolutionary Tribunal of Jacques Le Clerc, the editor of a journal in Rouen;[5] on July 30 of the same year, Montané, the president of the Tribunal, on the basis of charges brought by Fouquier-Tinville and the assistant *greffier* Ducray, was ordered placed under arrest;[6] and on September 30, two months later, a decree was issued against the Comte de Béthune-Charost and a woman named Marquet.[7] Similar cases—they could be given in large number—continue throughout 1793 and much of 1794. The Convention seemed ready at all times to initiate by decree a case before the Tribunal whenever its attention was drawn to questionable persons. The conclusion is quite clear. The Convention, itself, was an integral and functioning part of the "revolutionary" government and seemed

[2] *Moniteur,* April 8, 1793, XVI, 69.

[3] For example see *A.P.,* LXIV, 542 (July 26, 1793) against Brissot; *Moniteur,* June 5, 1793, XVI, 554 against Clavière and Lebrun and ten of the committee of twelve; *A.N.,* W509 (December 19, 1793) against De Joly and (October 10, 1793) against Brunet; W508 (July 29, 1793) against Custine; W507 (April 12, 1793) against La Noue, Stengel, Miranda and Miaczynski; W342, No. 648 (March 31, 1794) against Danton and his associates; and *A.P.,* LXII, 35, 36 (April 13, 1793) against Marat.

[4] Wallon, *Histoire . . .* III, 157-160.

[5] *Procès verbal* of the National Convention, *A.N.,* W9, No. 180.

[6] Decree of the National Convention, *ibid.,* W2, No. 1.

[7] Decree of the National Convention, *ibid.,* W12, No. 574.

quite willing to give its attention to counter-revolutionary activities in much the same spirit as a committee of surveillance or any other body of the government created for police purposes. It could not stand clear of the agencies of its own creation and contributed by example quite as well as by original impulse to the ardor and efficiency of each level of the structure.

The Convention also served from time to time as an intermediary between the Tribunal and a variety of authorities of local dignity. Many of these sent to the Convention documentary evidence against particular individuals instead of addressing the information to the Tribunal where it ultimately came to rest.[8]

Frequently lines of authority were not clear and disturbed and harassed local officials might communicate with the Convention not knowing what else to do. For instance, at Poitiers in June, 1793, a dispute arose between the administrators of the department and two representatives on mission as to whether or not certain individuals who were accused of interfering with recruitment should be sent to the Tribunal. The department favored their release; the representatives insisted upon conveyance to Paris; and each gave appropriate orders. Significantly the administrators now wrote to the Convention while the representatives reported the matter to the Committee of Public Safety.[9]

In the opposite direction went the decrees expanding the law of counter-revolutionary activities and orders for investigations when some laxness in the execution of the revolutionary laws was suspected.[10] Petitions from prisoners were received and considered[11] and decrees passed for the release of persons under arrest and awaiting trial by the Tribunal.[12] On one occasion in March 1794, the Convention intervened to order Fouquier-Tinville to give an immediate trial to Étienne Thiry who was accussed of impersonating a representative on mission[13]—a misrepresentation likely to involve the highest revolutionary sensibilities. The order did not go unnoticed; Thiry was executed three days later.[14] These activities were not too different in scope from those of several

[8] Administration of the department of the Yonne, April 13, 1793, *ibid.*, W3, No. 73; public prosecutor of the criminal tribunal of the department of the Ardennes, May 29, 1794, *ibid.*, W39, No. 2578; national commissioner of the district tribunal of Angres, July 9, 1794, *ibid.*, W36, No. 2363.

[9] Aulard, *Recueil . . . salut public,* V, 42.

[10] Gohier to the president of the Revolutionary Tribunal, May 11, 1793, *ibid.*, W15, No. 653. The pertinent information is in a marginal note.

[11] Decree of the National Convention refusing a petition of Jacquier, former secretary of the municipality of Guillar, August 22, 1793, *ibid.*, W5, No. 225.

[12] Copy of *procès verbal* of the National Convention ordering the release of Paulet and Duplan, two army officers, March 23, 1794, *ibid.*, W35, No. 2164.

[13] Aulard, *op. cit.*, XII, 101 and 126.

[14] Wallon, *op. cit.*, III, 76-77. The case has human interest. With forged papers and a young actress from Nancy, the adventurous Thiry had levied tribute from several towns in expiation for their laxness in enforcing the revolutionary laws.

lesser bodies; the Convention's status as sovereign did not prevent it from trivial interventions nor save it the irritations that more commonly fell to the lot of humbler groups. It should be observed, however, that charges levied by the Convention—and this was especially true of charges against its own members—were of such an authority that in the subsequent trials the Convention, in a very real sense, may be said to have participated with the Tribunal in the finding of the verdict and the pronoucement of the judgment.

Most of the decrees of the Convention relating to the inidviduals who appeared before the Tribunal were passed upon the recommendation or through the intercession of one of its major committees. These committees—the Committee of Public Safety and the Committee of General Security—discharged much of this work as a joint responsibility. As separate committees, however, the Committee of General Security, through its general police responsibility, had more numerous relationships with the Tribunal while those of the Committee of Public Safety, through its executive power, were more important and will receive first attention.

During the first few months of the Tribunal's operations, the Committee of Public Safety, in accordance with the instructions of the Convention, sent to Fouquier-Tinville such information and evidence as might come to its attention concerning crimes of a counter-revolutionary nature.[15] On May 31, 1793, the Committee was authorized to investigate the alleged plots that had accumulated around the political activities of the Girondins.[16] Very early, then, in the history of revolutionary justice, the Committee was linked with the public prosecutor of the Tribunal in the discovery and apprehension of those who appeared before the Tribunal. This relationship, as in the case of the Girondins, was likely to be very close in the trials that were of political consequence and reflected the play of political fortunes in the Convention. In as much as the Committe usually had in hand information and the results of prior investigations all of which became evidence when placed before the Tribunal, the activities of the Committee became in a real sense supplementary to those of the Tribunal. With the expulsion of the Girondins from the Convention, however, the Committee began to play an even more important part. The establishment of a one-party control over the Convention and its committees made co-operation easier, for all now responded to a more closely integrated will. In addition the atmosphere of Paris was surcharged with rumors of plots and counter-plots involving grave questions of patriotism, and it was but natural that

[15] Committee of Public Safety to Fouquier-Tinville, April 29, 1793, *A.N.*, W3, No. 164; report of the general council of the department of the Cher to the Committee and to the Tribunal, May 24, 1793, *ibid.*, W6, No. 248; the *adjoint* to the fourth army of the department of the Var to Fouquier-Tinville, May 25, 1793, *ibid.*, W4, No. 175; and A. Aulard, *Recueil . . . salut public,* III, 310.

[16] *Moniteur,* June 3, 1793, XVI, 535-537.

the committees investigating these plots should work in closest harmony with the Tribunal designed to punish the culprits. Perhaps the two best examples of the close relationship between the Committee and the Tribunal are in the collaboration so obvious at the trials of the Girondins[17] and the Dantonists.[18]

This cooperation in trials of a high political interest, while the most spectacular evidence of the influence of the Committee on the Tribunal, was by no means the most important. It is difficult to indicate the exact degree to which the Committee influenced or modified the activities of the Tribunal. In many instances the Committee had nothing whatever to do with the accused at any stage of his trial; in others the Committee touched the process at one stage or another. This could occur in the placing of charges; in the transmission of documents; in orders for the release of certain prisoners; or in any of a hundred and one subtle ways in which influence can be exerted, especially when the two institutions involved share something of the same nervous system. It must not be forgotten that by mid-summer of 1793 much of the selection of personnel had fallen into the Committee's hands and the Tribunal, as the other revolutionary agencies, looked to the Committee for the lead in the dangerous and heady experiment in revolutionary government.

During the summer and autumn of 1793 this Committee continued to receive reports from local authorities concerning the arrest of suspected counter-revolutionaries in the various localities. These reports were frequently accompanied by the copies or the originals of the evidence which the local authorities had gathered. Most prominent of these documents was likely to be the report of the hearing given the suspect by some local magistrate.[19] These documents, when received, were passed on by the Committee to the Tribunal for consideration under circumstances that clearly implied that the parties acccused had already passed through two winnowing processes and the assumption of guilt correspondingly strengthened. Any action by the Committee would be received with great respect by the Tribunal where after the reorganization of September 26, 1793, judges and jurors held their posts by virtue of the Committee's recommendation to the Convention. While it is almost impossible to weigh influences that spring from prestige and the powers of appointment there is little doubt that the commitment of a case to

[17] Aulard, *op. cit.*, IV, 578; V, 2, 23, 44, 61, 78, 153, 460; VI, 39, 42; VII, 583.

[18] Tuetey, *Répertoire . . .*, XI, Nos. 249, 250, 251, 253, 857, 859 summarizes good examples of this.

[19] Administrators of the department of the Aube to the national commissioner [*sic*] of the Revolutionary Tribunal, June 12, 1793, *A.N.*, W3, No. 109; representative of the people to the army of the Côtes de Brest to Fouquier-Tinville, June 20, 1793, *ibid.*, W6, No. 259; Dumare, former general of brigade in the army of the Nord to Fouquier-Tinville, October 6, 1793, *ibid.*, W20, No. 1069. For examples of typical orders of arrest see Aulard, *Recueil . . . salut public*, VIII, 19, 76, 198; IX, 4.

the Tribunal after prior consideration by the Committee had, for the defendant, the gravest connotations.

This influence, formidable at all times, became increasingly powerful through the unfolding of revolutionary circumstance.

The passage of the "law of the suspects" on September 17, 1793,[20] marked the increasing seriousness of the internal crisis and an accelerated flow of prisoners into Paris led to the demand for the creation of local revolutionary tribunals.[21] Many who were sent to Paris under terms of the act came as an evidence of the zeal of the representatives on mission to the various departments. These representatives acted as agents of the Committee and were under its control and supervision. It was, as a matter of fact, the organization of the departments, districts, and communes of France for revolutionary action, effected largely through the "deputies on mission" and the local revolutionary committees (still to be mentioned), that brought the Committee and the Tribunal to the peak of their revolutionary careers. For the Committee the representatives on mission provided the means for extending into every part of France some of its revolutionary zeal and ardor; for the Tribunal the representatives became, according to temperament and local influences, admirable agents for the detection of the enemies of the revolution. Committee, representatives on mission, and Tribunal did much to provide France with a mechanism for transmitting sensations and coordinating movements. Without this the revolutionary capacities of the country could scarcely have been brought to concert pitch. By December, 1793, the Committee of Public Safety had become the directing intelligence of a sensitive apparatus for revolutionary action.

The way had been prepared for this when, on October 10, 1793, shortly after the indictment of the Girondins and following a speech by Saint-Just, the government of France had been termed "revolutionary" by the Convention.[22] The implementation of this declaration did not take place, however, until the passage of the law of 14 Frimaire, year II (December 4, 1793).[23] This act declared the Convention to be the head of the revolutionary government but in reality provided the basis for the predominance of the Committee of Public Safety. From the point of view of the Revolutionary Tribunal this reorganization of the national agencies was of great importance, for the Committee found itself in control of a reorganized local government which through representatives on mission, national agents, and revolutionary committees was able to energize and supervise the application of the revolutionary laws in the districts and communes.[24] The identity of will and interest

[20] *Moniteur,* September 19, 1793, XVII, 680-681.
[21] Aulard, *op. cit.,* VIII, 43, 114, 217, 288.
[22] *Moniteur,* October 14, 1793, XVIII, 110.
[23] *Ibid.,* December 9, 1793, XVIII, 610-611; also Aulard, *op. cit.,* IX, 149.
[24] An explanation of this new law was sent by the Committee of Public Safety to the revolutionary committees and the committees of surveillance. *Ibid.,* pp. 166-168.

already existing between the Committee and the Tribunal was now supplemented by reenergized agencies throughout France anxious to translate a harmony of purpose into an ever more active operation of revolutionary justice.

While the period following December marked a *crescendo,* the Committee and the Tribunal from the beginning had followed parallel courses. Typical examples of the activities of the Committee, each supplementing the function of the Tribunal, come easily to hand. Direct intervention was recognized for the Committee on July 28, 1793, when the Convention authorized the Committee for the first time to issue warrants of arrest.[25] Throughout the period, however, the Committee was exhorting the representatives on mission to be diligent in their efforts against the counter-revolutionaries;[26] to determine whether or not those held under arrest in the localities should be sent to the Revolutionary Tribunal for trial;[27] to issue orders for the arrest and dispatch to Paris of persons both known and unknown;[28] to attempt to secure the enforcement of the various laws referring to rationing and requisitioning where the penalty for violation was to be assessed by the Revolutionary Tribunal;[29] to send to Fouquier-Tinville correspondence and other documents demonstrating treasonable conduct;[30] and to intervene in the enforcement of discipline in the prisons.[31] There seems no doubt that the Committee and the Tribunal frequently went hand in hand.

What was true of the earlier period became increasingly evident after December, 1793, when the dependence of the Tribunal upon the Committee became marked. On several occasions this resulted in Committee decisions affecting the internal operations of the Tribunal. On February 9, the jurors of the Tribunal were ordered to abandon their habit of accompanying their verdicts with speeches, since this practice detracted from the operation of reason in arriving at the guilt or innocence of the accused.[32] Some two weeks later, again on order of the Committee of Public Safety, the Tribunal was provided with an additional room to be

[25] *Moniteur,* July 31, 1793, XVII, 268. Before this warrants had been issued on request by the Committee of General Security. Multiple conspiracy and the burden—now deemed fatal—of delay prompted the Convention to arm the Committee of Public Safety with this additional power.

[26] Aulard, *Recueil . . . salut public,* III, 193; VI, 539, 555; XII, 342.

[27] *Ibid.,* IX, 675; X, 203. Many officials were confused by the jurisdictions of the several courts and looked to the Committee for guidance.

[28] *Ibid.,* V, 413, 420; VI, 86; VIII, 76; IX, 415; XI, 212; XII, 101, 465, 486-487, 689; and XIII, 208.

[29] *Ibid.,* VIII, 221 (this concerns a farmer who was suspected among other things of having fed bread to his horse); XI, 437; XIV, 28, 173, 228, 358-359; XIV, 162, and 707-708.

[30] *Ibid.,* III, 282, 385, and 443-444.

[31] *Ibid.,* XIV, 290-291, 739, and 741. For the Committee's action in the famous matter of the conspiracy in the prisons see the extract of the register of the Committee, 17 Messidor, and II (July 5, 1794), *A.N.,* F^{7}4436^{a}, plaque 8.

[32] Aulard, *op. cit.,* XI, 3.

used when the pressure of cases undergoing a hearing made extra space necessary.[33] The part of the Committee in the administration of revolutionary justice became even more intimate on April 16 with the establishment of a bureau for the general surveillance of the police.[34] The Committee of General Security protested, though in vain, against the assumption of a duty that so closely paralleled its own.[35]

On May 13 and 14, 1794, the same tendency was carried further with the inauguration of a popular commission to work under the supervision of the Committee of Public Safety. The purpose of this commission was to carry out the intent of the Ventôse decrees. It was its duty to examine the prisoners in Paris and to determine those who should be sent before the Revolutionary Tribunal, deported, or placed at liberty.[36] This preliminary sorting, while represented as an attempt to rescue patriots who might be languishing in prison awaiting trial, had as its real purpose the confiscation of the property of the unpatriotic rich. While the Tribunal did not remain in full revolutionary activity long enough to feel the weight of this particular work, the lists of the commission had some effect upon the Tribunal. The presumption existed that those who were thus sent before the Tribunal had already been found guilty by the commission whose decisions carried the weight and authority of the Committee of Public Safety.[37]

This was at most, however, an indirect influence on the Tribunal. The Committee acted in a more direct manner on May 14 (25 Floréal, an

[33] *Ibid.*, pp. 412-413.

[34] *Moniteur,* April 17, 1794, XX, 234.

[35] A. Mathiez, *Girondins et Montagnards* (Paris, 1930), p. 156. See also A. Ording, *Le bureau de police du comité de salut public* (Oslo, 1930). Ording believes, and with evident basis, that there was little duplication of effort between the Bureau and the Committee of General Security and that politics, rather than function, created such discomfort as existed between the two.

[36] Aulard, *op. cit.,* XIII, 483-484. This was in execution of a decree of the Convention of March 13 which provided for six commissions. Two were established on May 13-14, interestingly enough under the chairmanships of Trinchard, an ex-juror, and Subleyras, a former judge of the Revolutionary Tribunal. On July 22 the combined Committees of Public Safety and General Security decided to place the remaining four in operation along with four ambulatory revolutionary tribunals, despite the fact that the first two, owing to the slowness of the Committee of Public Safety in examining their lists, had not been very effective. According to Mathiez (*Girondins et Montagnards,* pp. 140-141), this decision was a concession to the revolutionary ideas of Robespierre and Saint-Just. They had intended that the work of the commissions result in a redistribution of wealth through the confiscation of the property of those deported, or sent before the Tribunal, and its distribution among the poor. See also Aulard, *op. cit.*, XV, 349.

[37] The problem of the popular commissions and the Ventôse decrees will be considered in a later place. See *infra,* pp. 146-147. The popular commissions were required each day to send to the Committee of Public Safety a list of persons considered and the decision against each as well as the nature of the charge (*A.N.,* F^{7}4436^{a}, plaque 3). The Committee thus kept a close oversight of the commissions and persons passed on to the Tribunal for final judgment had already passed through the meshes of two revolutionary sieves. They came, therefore, under a burden of presumed guilt that left little room for hope.

II) by requiring that the public prosecutor provide the Committee at ten-day intervals with a list containing the cases which the Tribunal intended to try in the following ten days.[38] During the first week of June, 1794, the combined Committees of Public Safety and General Security required Fouquier-Tinville to compile and supply four lists: (1) those who had been sentenced to death; (2) those who had been acquitted and released; (3) those who were to be held in prison for the duration of the war or deported; and (4) those being tried or who were to be tried. With a suggestion of complaint, Fouquier-Tinville replied on June 7 that the lists would be prepared though a delay would be necessary to permit the required work.[39] In addition to submitting these lists Fouquier-Tinville also developed the habit of visiting the Committees of Public Safety and General Security in the evenings after the completion of the day's work at the Tribunal and consulting with them concerning the disposition of certain cases.[40] These visits and lists were largely responsible for the development of the contention that the public prosecutor was the creature of Robespierre and that the Tribunal did its work largely on the basis of his commands to Fouquier-Tinville. As a matter of fact there is surprisingly little evidence to indicate any undue influence by Robespierre over the Tribunal. Although he was a member of the section—the bureau of police—of the Committee of Public Safety that exercised a degree of jurisdiction over police details, a large number of the orders issued by the Committee to the Tribunal do not bear the signature of Robespierre though he may have been present when the decision was made. There is evidence, moreover, that Robespierre held Fouquier-Tinville in contempt and was reluctant to have any personal dealings with him.[41] The lists demanded by the Committee and the visits of Fouquier-Tinville do not go beyond supporting the charge that the Tribunal was open—as was indeed every other institution of the revolutionary government—to the influences of the two principal committees. The executive powers of the Committee of Public Safety gave it, quite naturally, a special position; Robespierre's influence at the Tribunal—and it seems never to have been largely nor consistently exerted—was the result of his position

[38] *Ibid.*, On July 20, the Committee of General Security requested Fouquier-Tinville to provide it with the same list. Examples of these lists for several *décades* may be found in *ibid.*, F7 4438, plaque 2.

[39] Representatives of the people on the Committees of Public Safety and General Security to the Public Accusator, s.d.; Fouquier-Tinville to the Committee of General Security, 19 Prairial, *ibid.*

[40] After the beginning of revolutionary government, Fouquier-Tinville, as a rule, called about 10 or 11 o'clock in the evening, at the Committee of Public Safety. From there he went to the Committee of General Security where he occasionally did not leave until 2 o'clock in the morning. See Ording, *op. cit.*, p. 155.

[41] A. Mathiez, *Autour de Robespierre* (Paris, 1926) pp. 137-143. Ording, *op. cit.*, has gone the fartherest of any in reducing this suspicion, largely the product of post-Thermidorean scurrying for cover, to its proper—and small—proportions.

within the Committee and did not arise from any personal intercessions with Fouquier-Tinville or the bench of judges. The truth of the matter would seem to be that the revolutionary government of France rested upon a bureaucratic solidarity in which the committees and agencies of government followed a common line; but it would, I think, be idle to argue that that common line was imposed by one man. Some distinction might be made, however, between Robespierre as a person motivated by a gnawing ambition for power and Robespierre as a proponent of certain political principles. In the realm of political philosophy there is no doubt that Robespierre and the Tribunal shared in large measure the same ideas of the proper course of events and the preferred modes of action. In this sense the thesis of influence has a limited validity. There is little evidence though to indicate that Robespierre, or even the "triumvirate" attempted to subject the Tribunal to direct personal suasion.

This cooperation between the Tribunal and the Committee of Public Safety became most marked with the passage of the law of 22 Prairial (June 10, 1794).[42] As we shall see, by this time the jury had been instructed to judge the guilt or innocence of the accused on the basis of moral proof or sentiments. The juror became a sort of litmus paper automatically registering the proper color in the presence of innocence or perfidy. This test provided an excellent mode of action for the theory of revolutionary justice entertained by both the Committee and the Tribunal. Its use did not begin in Paris; a month before this time the Committee had formulated this sort of proof and the procedural speed that went with it and authorized its application by the revolutionary commission of Orange.[43] By this time the revolutionary struggle was reaching its full force. It was but natural that the several institutions at the center of things would be driven by the same force of events and would find themselves advancing in some semblance of order. Documents, decrees, reports, denunciations, and information flowed in great streams between the Committee and the Palais de Justice.[44] Any investigation of this material leaves the impression of haste and routine; there is little to indicate the operation of personal politics or the creation of personal power. If one keeps in mind the greater machine, Committee and Tribunal become parts and their activities meaningful less in terms of each other and more in terms of revolutionary action as a whole.

[42] *Moniteur,* June 12, 1794, XX, 696-697.

[43] Aulard, *Recueil . . . salut public,* XIII, 410. The Commission was not without its link to Paris; Fauvetty, a juror of the Revolutionary Tribunal, was named a member.

[44] Citations to materials of this nature could be made almost endlessly. Examples are found in a denunciation sent by the Committee of Public Safety to Fouquier-Tinville, June 24, 1794, *A.N.,* W46, No. 3043; copy of the register of the Committee, June 25, 1794, *ibid.,* W61, No. 3566; Committee to Fouquier-Tinville, July 9, 1794, W37, No. 2409. See also Aulard, *op. cit.,* XIV, 290-291, 358-359, 482, 650, 739, 741; XV, 180, and 315-316.

This rather impersonal and mechanistic approach is somewhat revised, it is true, when one or two other aspects come into view. The Tribunal, by organization and function, was more subject to the reception of influence than its exercise; the opposite was true of the Committee. In a period during which little attention was given to the formal separation of judicial authority from legislative and executive power, the Tribunal would appear as a moon reflecting the brillance and warmth of the Committee's sun. The appearance had its element of deception. The Tribunal was not a dead world: it had its own life and vigor; it had its inner tension and zeal; it had its place in the bureaucratic solidarity and its conception of revolutionary necessities. Revolutionary government required cooperation and certainly the Tribunal fulfilled toward the Committee of Public Safety every responsibility placed upon it by law and the dictates of a common philosophy. Too much, however, has been said of the supine position of a Tribunal that was never completely the creature of the Committee—not even when that Committee, to all intent and purpose, was naming its judges and jurors.

The work of the Committee of General Security had a different importance for the Revolutionary Tribunal. It was this Committee with its general supervision over the police power of the revolutionary government that, more than any other institution, kept a constant stream of defendants appearing before the Tribunal. While the more important "counter-revolutionaries" were frequently the concern of a joint committee meeting, most of these defendants were too lowly to draw the attention of the exalted Committee of Public Safety; they were the everyday concern of the Committee of General Security.

This Committee was a clearing house for information, denunciations, and documentary evidence concering prisoners and crimes from all parts of France. In time it became, as Belloni said, "un centre immense de renseignements."[45] Everyone, every agency—private persons, local officials, justices of the peace, and the National Convention—used the services of this Committee in the enforcement of laws involving the safety and security of the state; and since many laws of this character were also included under the system of revolutionary justice, the Committee in the autumn of 1793 became the chief purveyor to the Revolutionary Tribunal.

From local officials and national agents but especially from its principal and most valuable aids, the committees of surveillance, the Committee received enormous quantities of materials submitted as evidences of guilt against a numerous list of accused. Frequently the person accused was sent along with the evidence against him; at times, he fol-

[45] G. Belloni, *Le Comité de sûreté générale de la Convention nationale* (Paris, 1924), p. 431.

lowed at a later date and upon the direction of the Committee.[46] On the basis of reports and documents reaching it, often supplemented by hearings of its own,[47] the Committee decided what should be done with the charges submitted to its consideration and with the persons implicated in them. Frequently arrests were made by order of the Committee,[48] as well as authority issued for the search of personal papers and households for incriminating evidence.[49] Agents were also dispatched outside of Paris to investigate the state of public opinion in various cities and to secure the arrest of those contributing to disturbances.[50] As a part of its general vigilance, the Committee also followed the trials of the Tribunal with interest in the hope that some of the evidence presented there might reveal the existence of accomplices.[51] This vigilance, however, extended during 1794 into every part of France. Toward the end of March, the Committee ordered all of the committees of surveillance—about 40,000 of them—to submit upon printed and supplied forms an account of all held in the local prisons. While some difficulty was encountered in securing any reply from some and uniform replies from others, the Committee secured a partial inventory of the prisons of France and a vast store of information from which to select individuals for closer scrutiny.[52] The full impact of this system was

[46] Report of the general council of the department of the Sarthe, April 27, 1793, *A.N.*, W3, No. 116; committee of surveillance of the commune of Grenoble to the Committee of General Security, January 22, 1794, *ibid.*, W20, No. 1039; committee of surveillance of the commune of Clarnecy to Fouquier-Tinville, March 23, 1794, *ibid.*, W32, No. 1911; the administrators of the police of the commune of Paris to Fouquier-Tinville, July 10, 1794, *ibid.*, W46, No. 3048; Séard, former member of the revolutionary committee of Bordeaux to Fouquier-Tinville, July 25, 1794, *ibid.*, W55, No. 3431. The archives of the Tribunal are rich in references to its relationships with the Committee of General Security.

[47] *Interrogatoire* by the Committee of General Security, April 3, 1793, *ibid.*, W3, No. 196; *arrêté* of the Committee, July 1, 1793, *ibid.*, W6, No. 272; and *arrêté* of the Committee, October 18, 1793, *ibid.*, W35, No. 2257. These hearings were held during the evening hours and from time to time ran well beyond midnight. They were not too unlike the preliminary hearings of the Tribunal. Belloni gives an interesting documentary example of the questions likely to be asked and of the answers in this particular instance. It will not be a surprise, knowing that Fouquier-Tinville had visited the Committee of Public Safety earlier, to hear that the public prosecutor was present during some interrogations. Belloni claims, as well, that other personnel of the Tribunal were occasionally summoned for particular hearings (See Belloni, *op. cit.*, pp. 427-431). In instances in which the suspect was sent on to the Tribunal, the record of this interrogation before the Committee became an important part of the *dossier* sent with him.

[48] *Arrêté* of the Committee of General Security, October 23, 1793, *ibid.*, W11, No. 761; national agent at Rouen to the Committee of General Security, April 8, 1794, *ibid.*, W32, No. 1906; *arrêté* of the Committee, June 1, 1794, *ibid.*, W38, No. 2492; and the department of police of the commune of Paris to Fouquier-Tinville, July 25, 1794, *ibid.*, W51, No. 3307.

[49] Examples of this may be found in Tuetey, *op. cit.*, X, Nos. 775, 1035, 1359, 1988; XI, 1012, and 2086.

[50] *Ibid.*, X, Nos. 531 and 532.

[51] *Ibid.*, Nos. 183, 184, and 185.

[52] Additional attention will be given to this matter in the later treatment of the committees of surveillance. See *infra* p. 92.

averted by the events of 9 Thermidor. To a certain extent the Committee took on the aspect and functions of a grand jury; this was true not only in its considerations of evidence and its orders against the suspects but can be found in its numerous communications with the Tribunal and other agencies of the government directing the release of prisoners under arrest. From time to time releases of this nature were secured from the Conciergerie itself despite the fact that imprisonment there meant that the case had passed under the active cognizance of the Tribunal.[53] The activities of the Committee touched the operations of the Tribunal at so many points and in such an authoritative manner that one fears the existence at the Tribunal of a presumption of guilt in those sent by the Committee to undergo trial.

Perhaps the fullness of the Committee's work in dealing with the many problems of police work and the Tribunal can best be portrayed by sketching the rather typical and discursive acts of a single day of its work. On November 20, 1793—and this was before the declaration that the government was to be revolutionary—the Committee on the basis of evidence found in the home of Madame du Barry, one of the mistresses of Louis XV, ordered her arrest on the charge of emigration. Also arrested were the elder and younger Vandenyver who were suspected of sending her money during her stay in London. On the same day, the Committee ordered Pigean, one of its agents, together with two members of the revolutionary committee of the section of Fontaine-de-Grenelle, to go to the home of the Abbé Royer and search it for evidences of counter-revolutionary activities. On much the same kind of mission, Dubarron, one of the Committee's members, was directed to examine the register of the section of Mutius-Scaevola for evidence concerning Charlotte Luppé-Charry, a noble woman and *émigrée*, and Osselin, a deputy of the National Convention. The home of Tolosan, a wealthy gentleman, was to be searched by Morel, a secretary to the Committee, and two representatives of the revolutionary committee of the section of the Homme-Armé, on the suspicion that Tolosan had hidden a part of his wealth. Dufosse, a former member of the National Assembly, was dispatched to the prison of La Force, which the Tribunal frequently used, to await a further disposition of his case. In a further effort to find secreted wealth the papers of Pons, a deputy from the department of the Meuse to the National Convention, were ordered opened for examination. The Committee also required the arrests of Clavière, a brother of the former minister, Dufresne, and Giambousse, bankers, and the wife of the latter. Audainel, an author, and Montréal, the mistress of an English banker named Boyd, were taken into custody. In

[53] *Arrêté* of the Committee, October 29, 1793, *A.N.*, W3, No. 71; *arrêté* of the Committee, November 29, 1793, *ibid.*, W17, No. 741; national agent of the district of St. Pol to Fouquier-Tinville, December 18, 1793, *ibid.*, W24, No. 1339; and a copy of a decree of the Committee, March 22, 1794, *ibid.*, W32, No. 1949.

addition, Resout, inspector-general of the Garde-Meuble, and Pasquier, a painter of miniatures, were arrested. Finally a decision was made to send Raymond, a Negro who had contributed to the *Créole patriote*, to the Revolutionary Tribunal.[54] Almost all of this work touched upon matters capable of furnishing grist to the mill of the Tribunal.

By the spring of 1794 the dragnet of the Committee was catching an even greater number of persons and the influence of the Committee upon the flow of the Tribunal's work was clearly considerable. Almost as important was the tendency on the part of the Tribunal (as we have seen) to consider the authority of the Committee a valid basis for the presumption of guilt. On the opposite side it must also be emphasized that the Committee, since it served as a foyer to the Tribunal, used its powers to release from arrest many prisoners and thus relieved the Tribunal of the necessity of considering a number of cases in which the evidence was presumably weak.[55] Apparently the most important consequence of these releases, however, was not to allow the Tribunal more time for those awaiting trial—they continued to accumulate in the prisons of Paris—but to strengthen unintentionally and unfortunately the presumption of guilt toward those not released by the Committee's orders.

In brief, the Committee must have given the impression of feverish activity. It was constantly searching to discover all counter-revolutionary plots and for this purpose maintained a tremendous flow of correspondence with revolutionary agents both in Paris and the provinces. When upon the trail of a transgressor it issued warrants, commanded the gathering of evidence, dispatched questionnaires and orders for supplementary inquiries. At its behest suspects were sent to Paris to be examined, and there either released or remanded. It invited denunciations at all times and in its *bureau* attended to the centralization of documents and papers. Minutes of each case were prepared. Should it be required, the Committee could command aid from both civil and military authorities.[56]

Although the Committees of Public Safety and General Security play the dominant role in the relationships between the Tribunal and the national agencies in Paris, they did not completely exclude others. The Ministry of Justice performed a notable service as an intermediary between the Tribunal and local authorities, many of whom sent evidence to the Minister seemingly through ignorance of any better or more direct way to reach the Tribunal.[57] From time to time, the Committee of

[54] *Ibid.*, AF*II 289 and 290.

[55] *Arrêté* of the Committee of General Security, October 1, 1793, *A.N.*, W24, No. 1365; same, November 26, 1793, *ibid.*, W44, No. 2886; same February 14, 1795, *ibid.*, W50, No. 3299.

[56] Roblot, *op. cit.*, p. 107.

[57] Gohier to Fouquier-Tinville, June 16, 1793, *A.N.*, W5, No. 240; same to same,

Public Safety itself approached the Tribunal through the Minister of Justice using this office for the communication of documents to Fouquier-Tinville.[58]

Gohier, who was Minister of Justice from shortly after the inauguration of the Tribunal until the suppression of the Ministry by the revolutionary government, fulfilled his duty of sending all evidence, whether "à la charge ou à décharge des accusés" to the Tribunal without intercessions to influence the attitudes of either the Tribunal or the local authorities.

The Ministry, however, was suppressed on April 1, 1794, by an act abolishing the six ministries and the executive council. These ministries were replaced by twelve commissions with the work of the former ministry of justice going largely to the Commission of Civil Administration, Police, and Tribunals. Insofar as the work of the Revolutionary Tribunal was concerned the exchange of ministry for commission made little difference beyond an increase in the number of cases referred to it,[59] and the addition of certain services, largely police in nature. During the summer of 1794, the Commission was ordered by the Committee of Public Safety to report each day to Fouquier-Tinville on the behavior of those detained in the various prisons of Paris. The Tribunal was ordered to try within twenty-four hours any concerned in attempted prison revolts or stirring up dissension.[60] The Commission on July 21, 1794, received a joint responsibility with the Administration of Subsistence for the provisioning of hospitals assigned to the Revolutionary Tribunal.[61] This work had no political significance and continued in the reorganized Tribunal following the events of Thermidor.

In the same reorganization of the government on April 1, the Ministry of War was abolished and in its place appeared the Commission for Military Organization and Movement (Commission de l'organization et du mouvement de l'armée de terre). By this Commission a number of soldiers were sent to the Tribunal for trial.[62] The evidence accumulated by the army and local authorities accompanied the accused on his

November 26, 1793, *ibid.*, W11, No. 761; same to same, January 17, 1794, *ibid.*, W20, No. 1070; Minister of Justice to same, March 2, 1794, *ibid.*, W111.

[58] Aulard, *Recueil . . . salut public*, III, 282, 385.

[59] Commissioner of Civil Administration, Police, and Tribunals to Fouquier-Tinville, May 31, 1794, *ibid.*, W37, No. 2416; same to same, July 7, 1794, *ibid.*, W39, No. 2540; same to Le Blois, August 22, 1794, *ibid.*, W50 No. 3290; same to same, September 15, 1794, *ibid.*, W67, No. 3792.

[60] *Ibid.*, F^{7}4436^{A}, plaque 8. This order is dated July 5, 1794, and its relationship to the "prison conspiracies" is clear.

[61] Aulard, *Recueil . . . salut public*, XV, 325.

[62] Commission for Military Organization and Movement to Fouquier-Tinville, May 28, 1794, *ibid.*, W37 No. 2384; same to same, June 22, 1794, *ibid.*, W44, No. 2940; Morand, prosecutor of the military criminal tribunal of the army of the Alps, to same, June 3, 1794, *ibid.*, W39, No. 2562; Commissioner for Military Organization and Movement to Le Blois, August 14, 1794, W68, No. 3812.

journey to Paris. Few in number, they were of no great importance in the quantitative work of the Tribunal.

The activities—from intense to moderate—of the committees and commissions in Paris would have been impossible without some way of overcoming the decentralizing tendencies exercised by the Constitution of 1791. Methods to circumvent these tendencies had to be found if the France of 1793-1794 was to respond to the fervor of the leaders in Paris and all Frenchmen brought to a co-ordinated response against the enemies of liberty at home and abroad. This problem of projecting the energy and spirit of the central authorities into the localities of France was largely solved by the instiution of "the representatives of the people on mission." These representatives proved to be a most efficient agency of centralization. Going into the provinces to undertake the elimination of the enemies of the revolution, they wielded as one of their most formidable weapons the power of revolutionary justice.

The decree of the Convention, authorizing the dispatch of eighty-two representatives to the departments, originated in the Committee of General Defense and had as its purpose the stimulation of the war effort of the country and especially the levy of the 300,000 men demanded in the decree of February 24, 1793. The passage of the present decree on March 9, 1793 coincided in time with the agitation and excitement accompanying the provisions for the Revolutionary Tribunal. On March 10, as the representatives on mission had not yet left on their various assignments, the Convention ordered them to tarry until the reorganization of the ministry—which was adjourned—and the perfection of the law providing for the extraordinary criminal tribunal. As they left for their posts they were to take with them a copy of the law establishing the new Tribunal and the authority to commit to its jurisdiction conspirators who stirred up trouble or opposed the military efforts of the representatives most of whom left Paris on March 13-14.[63] From the beginning this group of representatives was connected with the events that led to the creation of the Tribunal and received powers, quickly exercised, that made of them representatives of the Tribunal in perhaps a fuller sense than they were representatives of the people.

These activities began with certain representatives immediately upon their reaching the departments to which they had been assigned. Carnot and Lesage-Senault wrote from Saint-Omer on March 18, 1793, that they believed it their duty to stop the procedure begun in the criminal court at Douai against persons charged with acts against the safety of the republic. Crimes of this kind were now the exclusive jurisdiction of the "tribunal révolutionnaire."[64] A contrary point of view was evidenced on the following day from Angers from whence representatives wrote to the Convention that it was important for the local criminal tribunal to

[63] Aulard, *Recueil . . . salut public,* II, 283, 295, 298-301, 304.
[64] Aulard, *ibid.,* II, 396.

make speedily some examples capable of deterring the rebels. For this purpose existing procedure and that provided for the Revolutionary Tribunal were much too slow.[65] This—well in advance of the first trial—was possibly the first of numerous and prolonged objections to the slow place foreseen and imposed by the procedure of the Revolutionary Tribunal. Initial confusion was confirmed from Vannes on April 2 when the president of the criminal tribunal requested through the representatives an official interpretation of the law of March 19. Its provisions were "obscures et douteuses."[66] By April 5, however, the stream of accused had begun its flow from its several sources to Paris. On that day, writing from Orléans, Bourbotte, Julien (de Toulouse), and Prieur announced: "Nous avons fait partir hier les conjurés du camp de Jalès: ils marchent vers le tribunal révolutionnaire où ils ne tarderont pas sans doute à recevoir la peine de leurs crimes."[67] For sixteen months the flow would continue as the level rose higher and higher in the prison dams of Paris. As early as March 21, however, there came from Fouché at Rennes a request for the establishment of local instruments of the Terror that would greatly ease the presumed burden upon the Tribunal still in the throes of organization in Paris. Pointing out that the prisons were full of men taken in arms and the people demanding a quick and exemplary justice, he requested the Convention to authorize the establishment of an ambulatory tribunal in every department.[68] Not all representatives had the sanguinary nature of Fouché nor did all prisons bulge as did those of Rennes.

More usual during the spring and summer was the dispatch of information, the request for instructions, and the notification that persons were being sent, usually accompanied by the results of local investigations, to the Tribunal. Quite typical are the following. From the Deux-Sèvres was sent the full record of a court martial against Marcé with the instructions that it be referred to the Tribunal.[69] From Orléans, on April 10, six persons suspected of being the assassins of Bourdon and Boucher were sent to the Tribunal with the promise that others would follow as soon as local investigations and the reports were completed.[70] From the Loiret came three men—an ex-noble, an ex-Jesuit, and an agent of an *emigré*—with the discerning remark, "you see that the assortment is complete."[71] In May, Amar and Merlino asked the Committee of Public Safety to instruct them whether a former abbé,

[65] *Ibid.*, 406.
[66] *Ibid.*, III, 41. The law in question may be found in the *Moniteur*, XV, 751-752. This law was in apparent contradiction with article I of the law of March 10-11 setting forth the jurisdiction of the Revolutionary Tribunal.
[67] Aulard, *ibid.*, 101.
[68] *Ibid.*, II, 430.
[69] *Ibid.*, III, 126. April 6, 1793.
[70] *Ibid.*, 186.
[71] *Ibid.*, 255. April 14.

now under arrest, should be sent to the Tribunal.[72] The following month revealed in Poitiers the occurrence of quarrel between the representatives and the departmental administration over the release of certain prisoners or their dispatch to the Revolutionary Tribunal. Interestingly enough the representatives reported to the Committee of Public Safety while the departmental administrators interceded with the Convention.[73]

By autumn the representatives had a broader basis for action. From Riom, Couthon was sending to the Tribunal at Paris all those who were suspected of hiding grain or making false declarations,[74] while from Lille came twelve who were charged with plotting to open the gates of the city to the enemy.[75] The reputation of the Tribunal was also getting abroad. In Rennes, Carrier rather gleefully wrote the Committee that he had quieted a number of prisoners demanding a hearing by threatening to send them to the Revolutionary Tribunal. "Ils ont gardé le plus profond silence depuis cette réponse." Meanwhile there were daily arrests of counter-revolutionaries and "suspects"; all would be sent to Paris.[76] The discovery, in the home of an ex-noble, of white *cocardes*, some vessels of the church, and a criminal correspondence with the enemy meant the immediate consignment of Cardinet to the Tribunal.[77] During the remainder of October, representatives sent other culprits from Nantes, La Réole, Brest, and Bordeaux.[78] Perhaps the best statement, however, of the activities of a zealous representative in a difficult department was sent to the National Convention by Taillefer. Writing from Cahors on November 12, 1793, he said:

> J'ai trouvé ce département fanatisé, royalisé, girondisé [*sic*], l'esprit public tué, un petit noyau de patriotes molestés, n'osant qu' à peine s' avouer montagnards; j' ai tout défanatisé, tout républicanisé, tout montagnardisé, tout ranimé, tout régénéré. Sociétés populaires épurées, administrations, tribunaux, municipalités purifiées, comités de surveillance créés; aristocrates, royalistes, fanatiques, girondins reclus; muscadins mis en réquisition, monopoleurs, egoïstes, richards, indifférents, sangsues du peuple pressurés; saints, saintes, anges, vaisselle, or, argent des émigrés, des aristocrates, versés dans les caisses publiques; cloches et batteries de cuisine mises à la disposition des fondeurs; courses continuelles, harangues, prédications, apostolats révolutionnaires: voilà ce que j'ai fait; si ce sont des sujets de dénonciation, je me confesse bien dénonçable.[79]

[72] *Ibid.*, IV, 78.
[73] *Ibid.*, V, 42. June 21.
[74] *Ibid.*, VII, 65. September 25.
[75] *Ibid.*, 72. September 26.
[76] *Ibid.*, 87. September 27.
[77] *Ibid.*, 220. Bourges, October 4.
[78] *Ibid.*, 287, 309, 369, 542, and 613.
[79] *Ibid.*, VIII, 386. The same representatives, two weeks earlier, had written from Rodez: "Je me propose de faire mettre en arrestation au moin quatre mille personnes dans ce départements." He also stated that he was instituting a local revolutionary tribunal (*ibid.*, 43).

It is scarcely surprising that such activity—and it was not too different in many of the departments—should flush birds of many feathers for the Tribunal.

Occasionally the judicial responsibilities of the representatives touched the armed services of revolutionary France. At Caen, for instance, Laplanche was to deal with a rebellion in the eleventh battalion of the section of the Tuilleries. The four leaders were arrested and held awaiting orders from the Committee of Public Safety to send them to the Revolutionary Tribunal or to a military commission.[80]

It would be fruitless to follow from instance to instance the activities of individual representatives in providing the accused for the Tribunal. While many apparently did not exercise their authority or found themselves in quiet departments where revolutionary zeal would have appeared excessive, nonetheless the Tribunal did receive an appreciable list of accused from the active representatives. Though the list is by no means complete, it is known that the Committee of Public Safety received correspondence informing it that persons had been sent or would be sent to the Tribunal, or asking if they should be sent, from the following places: Nancy, Lyon, Cassel, Roche-libre (formerly Saint-Chély), Le Puy, Sens, Belley-Régénéré, Arras, Perpignan, Bitche, Marvéjols, Rouen, Blois, Sarrelibre, Sans-Nom (formerly Marseille), Perpignan, Toulouse, Saint-Dizier, Colmar, Brest, Falaise, Le Mans, Étain, Bourg-Régénéré (formerly Bourg-en-Bresse), Saintes, Besançon, Coutances, Auxerre, Corbeil, Paris, Valognes, Tulle, Carentan, and Avranches.[81]

One or two points have a special interest. Writing from Nantes on May 30, 1794, Bourbotte informed the Committee of Public Safety that since the suppression of the revolutionary commissions[82] all of the prisons were overflowing and he feared an outbreak of the pest. Some two or three thousand of these prisoners were presumed to have had relationships of varying degree with the brigands of the Vendée or with the Chouans. While all were not subject to transportation to Paris, he had no confidence in the personnel of the criminal tribunal of the department. He requested that he be permitted to use the revolutionary commission of the Ile-de-la-Montagne for the trial of these prisoners.

[80] *Ibid.*, IX, 46. November 29.

[81] This correspondence may be found in the same order in *ibid.*, VIII, 545 (Nov. 18); IX, 249 (Dec 7), 400 (Dec. 14); 432 (Dec. 15); 616 (Dec. 23), XIV, 12 (May 29); IX, 647 (Dec. 24); 650 (Dec. 24); 675 (Dec. 26); 717 (Dec. 27); 758 (Dec. 29), X, 95 (Jan. 6, 1794); 59 (Jan. 3, 1794); 72 (Jan. 5, 1794); 203 (Jan. 12); 297 (Jan. 17); 428 (Jan. 24); 609 (Feb. 1); XI, 173 (Feb. 15); 404 (Feb. 25); 721 (March 15); XII, 114 (March 22); 161 (March 24); 335 (April 1); XIII, 351 (May 7); XIV, 254 (June 11), XV, 122 (July 12); XIV, 280-81 (June 12); 371 (June 17); 599 (June 29); 670 (July 2); 767 (July 6); XV, 115-16 (July 12); 113 (July 12); 151-52 (July 13); 157 (July 13); 252 (July 17); and 390 (July 23).

[82] *Ibid.*, XIV, 36-37.

In addition, at Nantes alone there were some four or five thousand prisoners held on the grounds of general security; these he intended to examine as soon as possible.[83] This incident is cited as an illustration of the fact that large numbers frequently balked the efforts to concentrate the administration of revolutionary justice in Paris and served to reduce the number of persons sent to the Revolutionary Tribunal from the departments. Actually reference to Paris for trial was far more likely when the number involved was small. Through this fact the part played by the representatives in the work of the Tribunal was kept somewhat smaller than their activities in behalf of revolutionary justice would have indicated.

It must not be assumed, furthermore, that the Tribunal always worked to the satisfaction of the representatives. In the Sarthe and the Loire-et-Cher, Garnier (de Saintes) had discovered what appeared to be a plot to discredit and overthrow the authority of the Convention. Its leaders had been sent to the Tribunal accompanied by the testimony of seventy witnesses taken by a justice of the peace who could have had a thousand depositions had he needed them. Despite this the culprits were not found guilty and Garnier wrote to the National Convention that ". . . ce jugement vient de renverser tout le fruit de mes travaux."[84] One is scarcely prepared for an indictment of the leniency of the Revolutionary Tribunal.

About the same time from Albi, the representative Bô was informing the Committee of Public Safety that he had not believed his authority permitted him to annul the sentence of deportation against Nastruc in order to send him to the Revolutionary Tribunal. He did, however, place under provisional arrest the jury—more ignorant than perverse—of the criminal tribunal that had refused to admit the existence of a plot against the nation.[85] His requested advice from the Committee was apparently never sent. An instance of more marked concern can be found in a letter of Lefiot. Writing from Clamecy, he complained of the intransigence of the committee of surveillance of that place and accused certain members of attempting to concert matters with the Committee of General Security for the issuance of an *arrêté* that would result in sending twenty individuals to the Revolutionary Tribunal. There had been here, he continued, a pardonable excess of zeal that had resulted in the detention of a large number of suspects; many of these should be placed at liberty.[86]

It is difficult to evaluate the direct services to the Tribunal of the representatives. Many did not contribute at all to the mounting group of unfortunates awaiting judgment; others sent suspects in a fitful and

[83] *Ibid.*, XIV, 38.
[84] *Ibid.*, XIII, 279-281. May 4.
[85] *Ibid.*, 230. May 2.
[86] *Ibid.*, X, 254-55. January 14.

erratic fashion. One cannot escape the conclusion, however, that the activity of the Tribunal felt in an emphatic manner the effects of the work of the representatives. This was true despite the tendency to create and use local tribunals and commissions in many of the more troubled regions of France. There is, moreover, an indirect influence that must be given cursory recognition for the representatives frequently put in motion other revolutionary institutions that played their part in the total efforts for revolutionary justice.

In the destruction of counter-revolutionaries, the representatives, exercising powers little short of absolute, could resort either to the Tribunal in Paris or authorize the creation of local agencies for the extermination of disloyalty.[87] The general tendency was to erect local agencies in the centers of counter-revolutionary infection, since the transfer of numerous suspects to a distant tribunal would have imposed a great burden upon transportation and police personnel and involved a heavy expense. Also the example of retribution was felt to be necessary for the strengthening of revolutionary sentiment in the local population. Despite the tendency to create local centers for revolutionary justice, many suspects, however, were sent by the representatives to the Tribunal in Paris.

The activities of these representatives on mission touched the local governments at almost every point and set in motion the entire train of local authorities in the apprehension and punishment of crimes against the nation. The establishment of the *comités de surveillance* (or revolutionary committees) occasionally fell to the lot of the representatives on mission.[88] In other instances they encouraged patriotic committees to show vigilance and zeal or exercised their authority to purge committees of questionable loyalty.[89] For the most part, however, the committees were used as the medium for the arrest of supposed counter-revolutionaries and their transfer to Paris.[90] On November 24, 1793 the revolutionary committee of Nancy, for instance, was ordered by Faure, a representative on mission, to proceed to the arrest of Durozel, a former noble suspected of having taken part as a "chevalier du poignard" in an effort, in the winter of 1793, to free the king. On December 3, the committee of surveillance of Roul (Meurthe) on orders of Faure sent a local *curé* to the Tribunal in Paris.[91] A similar committee in

[87] These took the forms of local revolutionary tribunals, civil commissions, or military commissions. Greer (*The Incidence of the Terror . . .*, pp. 20-24) calls attention to these instruments of the Terror outside of Paris and rightly emphasizes the fact that an overwhelming majority of those executed as a result of judicial or quasi-judicial procedures were victims of these local groups. The ordinary criminal tribunals of the departments also played a part that will be later examined (see *infra*, pp. 104-108).

[88] *Ibid.*, VII, 65. September 25, 1793.

[89] *Ibid.*, 120, Sept. 29, and IX, 48, Nov. 29.

[90] This work will be considered in some detail in Chapter IV. See *infra*.

[91] *Arrêté* of Faure and committee of surveillance of Roul to Fouquier-Tinville, *A.N.*, W17, No. 756, *bis*.

the department of the Rhône was charged with the gathering of letters and papers of a suspicious nature and their dispatch to the Tribunal,[92] while the committee of Marly-la-Ville was to undertake the arrest of a former major of the national gendarmerie.[93] In the case of another suspect, the committee of Montpesat (Lot) took the initiative by referring suspicious letters to representative Bô.[94] The justices of the peace—one of the judicial innovations of the earlier revolution—were also used in the execution of orders and the preparation of a *procès-verbal* of the initial, and local, police and judicial actions.[95]

In addition to employing the services of the revolutionary committees and justices of the peace, the representatives made generous use of the district, municipal, and departmental officers for the arrest of suspects, for the collection of evidence, and for the dispatch of prisoners to Paris.[96] Among the most active aids to the representatives, however, were the national agents who carried out warrants for arrest and served as local agents for the sending of any local materials that might be required for the trials.[97]

This work tended to supplement, however, that carried on by direct relations between the representatives on mission and the Committees of General Security and Public Safety. Although as a usual thing the representatives were responsible to the Committee of Public Safety, numerous reports were made to the other Committee. These came, of course, in recognition of the Committee's responsibilities for the police. Thus representative Duroy wrote to Fouquier-Tinville from Strasbourg inviting him, in cooperation with "my colleages" of the Committee of General Security, to investigate the proceedings against certain individuals whom he intended to denounce upon his return to Paris.[98] Reports of arrests made and of evidence uncovered were frequently sent by the representatives to the Committee.[99] It was not unusual for

[92] Representative of the people to the committee of surveillance of the commune of Ponimier, May 6, 1794, *ibid.*, W32, No. 1954.

[93] Crasson, representative of the people, to the committee of surveillance of Marly-la-Ville, April 9, 1794, *ibid.*, No. 1905.

[94] The public prosecutor of the department of the Lot to Fouquier-Tinville, June 15, 1794, *ibid.*, W41, No. 2745.

[95] Public prosecutor of the department of the Orne to Fouquier-Tinville, May 25, 1794, *ibid.*, W37, No. 2398; directory of the district of the Vendôme to same, June 27, 1794, *ibid.*, W53, No. 3396; justice of the peace of Commune-Affranchie to same, July 21, 1794, *ibid.*, W56, No. 3438.

[96] Administrators of the district of Sens to Fouquier-Tinville, December 24, 1793, *ibid.*, W19, No. 918; *arrêté* of Foure, representative of the people, January 19, 1794, *ibid.*, W20, No. 1122; order of Noël Pointe, representative of the people, June 17, 1794, *ibid.*, W42, No. 2810; and Aulard, *Recueil . . . salut public*, VIII, 453, November 15, 1793.

[97] Maure, representative of the people, to Fouquier-Tinville, June 23, 1794, *A.N.*, W42, No. 2836; national agent at Nantes to same, August 11, 1794, *ibid.*, W44, No. 2912; same at Vitry-sur-Marne to same, July 24, 1794, *ibid.*, W51, No. 3314.

[98] July 18, 1794, *ibid.*, W24, No. 1425.

[99] Gannier, representative of the people, to the Committee of General Security, January 18, 1794, *ibid.*, W26, No. 1598; committee of surveillance of Chartres to

the Committee to release from prison persons who were there on charges brought by the representatives of the people;[100] as may be expected, these releases were most numerous after the events of Thermidor. The representatives, however, possessed and exercised the privilege of placing accused persons at liberty without consulting any other authority,[101] but this too was done more often after Thermidor. The commitment of prisoners to the Revolutionary Tribunal was, of course, more numerous during the first part of 1794, although a few were sent after 9 Thermidor (July 27, 1794).

From the Committee of General Security the representatives expected cooperation; to the Committee of Public Safety they looked for guidance.[102] There was also a greater reliance upon this latter Committee for orders and advice concerning the establishment and operations of the local revolutionary tribunals and commissions,[103] which in some instances were intimately related to the local work of particular representatives. It was of such an institution that the administrators of the district of Cambrai wrote when they reported to Fouquier-Tinville the impossibility of sending four accused to the Revolutionary Tribunal: "These men have been executed in accordance with the penalty of the law by the revolutionary tribunal that accompanies the representative of the people, Joseph Le Bon."[104] In other instances the criminal tribunals of the department and the military tribunals were authorized by the representatives to try counter-revolutionary crimes and "juger révolutionnairement."[105]

It is obvious that the activities of the representatives of the people, aided by the local authorities, directed by the Committee of Public Safety, and supported by the Committee of General Security, were responsible for the appearance in Paris of many of the defendants who appeared before the Tribunal and were therefore an important and accountable part of its working form. But the representatives could not be at all places at all times; other agents possessing a national

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Fouquier-Tinville, n.d., *ibid.*, W34, No. 2053; decree of Committee of General Security, June 22, 1794, *ibid.*, W41, No. 2756.

[100] Decree of Committee of General Security, March 22, 1794, *ibid.*, W32, No. 1949; same, October 18, 1794, *ibid.*, W35, No. 2257; same, November 14, 1794, *ibid.*, W44, No. 2918.

[101] National agent at Moulins to Fouquier-Tinville, May 16, 1794, *ibid.*, W20, No. 1033; administrator of the district of Avallon to same, May 26, 1794, *ibid.*, W32, No. 1960; memorandum of the Committee of General Security, November 26, 1794, *ibid.*, W55, No. 3430; public prosecutor of the department of Mont Blanc to Fouquier-Tinville, December 10, 1794, *ibid.*, W69, No. 3833.

[102] Aulard, *Recueil . . . salut public*, X, 470 (Arras, January 26, 1794); XI, 173 (Toulouse, February 15, 1794), 388 (February 25, 1794); XII, 10 (Mirecourt, March 16, 1794), 342 (April 2, 1794).

[103] *Ibid.*, X, 325 (Tulle, January 19, 1794); XI, 171 (Brive, February 15, 1794); XII, 495 (Lyon, April 9, 1794).

[104] *N.d., A.N.*, W33, No. 2010.

[105] Aulard, *op. cit.*, X, 361 (January 21, 1794), 383 (Alençon, January 22, 1794). See also *A.N.*, W111 (written just before January 29, 1794).

orientation and stationed permanently in the districts (the major subdivisions of the departments) were necessary if the burst of activity that accompanied the arrival of a representative was not to subside upon his withdrawal. This local but protracted authority was entrusted to the national agents.[106]

The duties of the national agents in the enforcement of revolutionary justice were varied, but that which appeared most frequently was the forwarding, from the local authorities to the Revolutionary Tribunal, of the many documents which figured as evidence in the trial.[107] The public prosecutor of the Tribunal corresponded directly with the national agents in requesting evidence or in demanding that original documents be sent to replace the copies that had been received.[108] As a natural extension of his work the agent was often called upon to send prisoners from the local *maison d'arrêt,* where they had been held, to the Conciergerie.[109] Both the Revolutionary Tribunal and the Committee of General Security used the agents for the execution of warrants for the arrest of specified persons.[110] Witnesses for trials were summoned by the agents,[111] and in one case at least an agent was required to furnish medical certification that a defendant was too ill to be transferred to Paris.[112] In general the national agents were neither called upon to make decisions beyond the instructions sent by the Tribunal or some other national authority, nor to follow a personal policy in their districts. It was apparently the desire of the Revolutionary Tribunal that they serve as reporters for the Tribunal in their districts and that through them some degree of co-ordination might be given to the efforts of the district and communal authorities in the suppression of counter-revolutionary

[106] The national agents replaced the *procureurs syndics* of the districts in the revolutionary government established by the law of 14 Frimaire, an II (December 4, 1793), sec. 2 article xiv, *Moniteur* December 9, 1793, XVIII, 611.

[107] Administrators and national agent of Nogent-sur-Marne to Fouquier-Tinville, March 6, 1794, *A.N.*, W23, No. 1289; national agent of the district of Égalité to same, March 28, 1794, *ibid.*, W27, No. 1620; same of district of Montignar to same, June 13, 1794, *ibid.*, W45, No. 2959; same of district of La Rochelle to same, July 15, 1794, *ibid.*, W51, No. 3310.

[108] Fouquier-Tinville to the national agent at St. Pol, February 10, 1794, *ibid.*, W24, No. 1339; administrators and national agent of the district of Miort to same, July 22, 1794, *ibid.*, W47, No. 3114; and national agent of the district of Falquemont to Le Blois, September 13, 1794, *ibid.*, W53, No. 3379.

[109] National agent of the district of Égalité-sur-Marne to Fouquier-Tinville, February 17, 1794, *ibid.*, W23, No. 1258; substitute of the national agent of the district of Cognac to same, May 10, 1794, *ibid.*, W36, No. 2301.

[110] Decree of Committee of General Security, July 11, 1794 *ibid.*, W35, No. 2164; national agent of the commune of Rouen to Fouquier-Tinville, June 3, 1794, *ibid.*, W38, No. 2504; administrators of the district of Chalons-sur-Saône to same, July 7, 1794, *ibid.*, W44, No. 2923.

[111] National agent of the district of Bergues to Fouquier-Tinville, February 24, *ibid.*, W23, No. 1216; same of the district of Autun to same, March 18, 1794, *ibid.*, W23, No. 1248.

[112] National agent of the district of Nantes to Fouquier-Tinville, September 4, 1794, *ibid.*, W44, No. 2912.

activities. A conscientious agent by his presence in the district and his official relationships with the Tribunal could be a deterrent to action against the new liberty, and a convenient avenue for communication between the Tribunal and the local authorities.

Very brief mention must also be given to the activities of the Provisional Executive Council that touched the Tribunal at several points. This Council had attempted to play some part in securing the quarters in which the Tribunal, at its installation, was lodged.[113] On April 4, the Council issued orders for the transportation of prisoners from Brittany to Paris for trial before the Revolutionary Tribunal. These accused conspirators were to come with such effects as bore upon their conviction as well as the records of their preliminary hearing and along the way those responsible for their safe arrival in Paris were to have every assistance from the armed forces.[114] This was done in fulfillment of a decree passed by the National Convention on March 18 at the solicitation of the Committee of General Security.[115] Some six weeks later, the Council stirred the Minister of the Interior to action in providing a place for the execution of those condemned by the Tribunal.[116] Toward the end of the year the Council ordered the distribution of 5,000 copies of a general list of the *émigrés*—always a fertile field for the scythe of the Tribunal.[117] These activities touched the Tribunal upon the periphery and were, as a rule, undertaken to carry out specific decrees of the Convention.

Thus, by the spring of 1794, the revolutionary government had erected a centralized system for the enforcement of whatever laws might seem necessary. The Revolutionary Tribunal in Paris was the principal organ of this system of justice, but it could function only through the constant efforts of the Convention, the two great committees, the representatives on mission, the national agents, and the intermittent activities of other institutions of the central government. They provided for the Tribunal the national machinery which brought all of France within reach of the Tribunal and revolutionary justice. Yet these national agencies, despite their formidable powers, could have achieved little had it not been possible for them to secure support from the local authorities. These now claim our attention.

[113] Aulard, *op. cit.*, II, 404. The Council may here have acted without authority as it seems impossible to locate the decree of the Convention upon which the action was based.
[114] *Ibid.*, III, 60-61.
[115] *Moniteur*, March 19, 1793, XV, 732.
[116] Aulard, *op. cit.*, IV, 145. May 13, 1793.
[117] *Ibid.*, IX, 561. December 21.

CHAPTER IV

LOCAL AUTHORITIES AND THE CLUBS

If there is reason for surprise in the number of persons who appeared before the Revolutionary Tribunal, there should be equal grounds for surprise in the number of persons who devoted at least a part of their efforts toward sending them there. Modern communications have made it possible for contemporary revolutions to administer their justice through organized, *élite* groups. The French of 1793 and 1794 were more dependent, however, upon the efforts of a large number of relatively unknown persons working without adequate centralized direction and substituting for the *esprit* that comes through organization, the *esprit* that grows almost entirely from revolutionary devotion. This activity represented a social and political effort that had its basis in the administrative organizations of the departments, districts, and communes of France. Through these extensions into various localities the Tribunal in Paris became national in its importance and scope.

The officials of the departments did not act as frequently or as energetically in their denunciations of counter-revolutionary activities as did the officials of the districts and communes. The law of December 4, 1793, which contributed to a degree to the great influx of prisoners to Paris, placed the major responsibility for the apprehension of enemies of the republic in the hands of the district where it was actually exercised by the committees of surveillance. The departments, however, during 1793 and occasionally afterwards, were useful intermediaries between the districts and the Revolutionary Tribunal, and, it must be confessed, did from time to time find it necessary to act in a more direct manner. Throughout, however, it must be remembered that the supposition in Paris was that departmental and district governments were badly tainted with the Girondist heresy; this, in part, explained the necessity for creating the special agents of the central government—the representatives on mission and the national agents—and prompted the formation of the committees of surveillance. Though distrusted, departments and districts did play a role that merits inclusion here.

The assemblies of the departments were divided into the directories and the general councils. The former, which were permanently in session, contributed at intervals to supplying the Tribunal's constant demand for evidence. On April 16, 1793, the department of Paris sent to the Revolutionary Tribunal the evidence in the case of Pierre Lefebvre, who in his capacity of servant to an Englishman had incurred the suspicion of being an *émigré*. This evidence included a complaint lodged by the section of Mont Blanc and the record of an interrogation administered

by the department.[1] The submission of complaints to the Tribunal was not unusual but apparently the enclosure of an oral examination before the directory or general council of a department was of infrequent occurrence.[2] As a rule the materials sent by the department or ordered sent by it included complaints, depositions of witnesses, records of committees or persons, letters or documents found among the personal effects of the accused, and the order of the administration of the department for the despatch of these items to the Tribunal in Paris.[3] Occasionally the department ordered, without awaiting a request from Paris, that the accused be sent along with the evidence.[4] In one instance the public prosecutor, late in the history of the Tribunal, called upon the administration of the department of the Ardennes to obtain witnesses for the trial of Dubreuil, a former noble.[5] From time to time departments were called upon to certify whether or not a defendant was inscribed on the list of *émigrés*.[6] The department also played a part in the execution of the Tribunal's orders for the forfeiture of the property of those convicted of counter-revolutionary crimes. The president of the directory of the department of the Moselle, for instance, informed Fouquier-Tinville that the administration had received notice of the condemnation of three men and that copies had been sent by the department to the director of the national domain and to all the districts, "pour faire opérer le séquestre des biens de ces condamnés."[7]

While the activities of the department were never very important in the administration of revolutionary justice, there was a tendency during 1793 to leave these infrequent contributions to an elective, consultative officer serving as a departmental prosecutor (*procureur-général-syndic*).[8] With the reorganization of the revolutionary government during De-

[1] Committee of surveillance, section of Mont Blanc, April 16, 1793; interrogation of Pierre Lefebvre, April 16, 1793, *A.N.*, W1, No. 51.

[2] The writer saw but one other in the voluminous archives of the Tribunal. In the department of the Loire a man suspected of discouraging the recruiting of soldiers was denounced and submitted to an interrogation before the administration of the department. See letter of the *procureur-général-syndic* of the department to Fouquier-Tinville, August 31, 1793, *ibid.*, W8, No. 395.

[3] The administration of the department of the Haute-Vienne to the Committee of General Security, August 31, 1793, *ibid.*, W8, No. 390; administrators of the department of the Manche to the Revolutionary Tribunal, December 28, 1793, *ibid.*, W19, No. 959; administrators of the department of the Ardennes to Fouquier-Tinville, February 3, 1794, *ibid.*, W38, No. 2494.

[4] *Arrêté* of the general council of the department of the Cher, May 24, 1793, *ibid.*, W6, No. 248.

[5] Administrators of the department of the Ardennes to Le Blois, November 9, 1794, *ibid.*, W49, No. 3211 *bis*.

[6] Certification by the directory of the department of the Meuse, February 3, 1794, *ibid.*, W24, No. 1445; the president of the department of Paris to Le Blois, November 7, 1794, *ibid.*, W50, No. 3291.

[7] December 29, 1793, *ibid.*, W111.

[8] *Procureur-général-syndic* of the department of Mayenne to Fouquier-Tinville, April 18, 1793, *ibid.*, W1, No. 43; same of the department of the Sarthe to same, May 4, 1793, *ibid.*, W3, No. 116; same of the department of the Cher to same, June 23, 1793, *ibid.*, W6, No. 257.

cember 1793, however, the *procureurs-généraux-syndics* were suppressed and the administration of the department was relieved of all direct responsibility in the enforcement of revolutionary laws.[9] Although correspondence from the departments is found in the records of the Revolutionary Tribunal for dates later than December, 1793, this correspondence was in reply to some order issued to the administration of the department by the Tribunal or by some other agency of the government.

The administrators of the districts made an early entrance into Tribunal history, but not until December, 1793, did their activities become important. On March 28, 1793, more than a week before the first trial conducted by the Revolutionary Tribunal, the administration of the district of Sarrebourg (Meuthe) addressed the "citoyen faisant les fonctions d'accusateur public près le tribunal révolutionnaire," requesting him to "jetter un coup d'oeil" over some documents. These documents related to the case of a doubting citizen who was suspected, amongst other things, of predicting that the Prussians would enter France within three weeks.[10] In September the administrators and the *procureur-syndic* of the district of Dinan (Côtes-du-Nord) informed Carrier and Rochelle, representatives of the people on missions, that they had arrested a number of the upper middle class who was suspected of carrying on a counter-revolutionary correspondence.[11] The administrators of Beauvais (Oise) sent a shoemaker to the criminal tribunal of the department from whence he went to the Tribunal in Paris charged with the destruction of two trees of liberty.[12] During the greater part of 1793, however, the administrations of the districts took little part in the enforcement of the laws governing counter-revolutionary activities.

This lack of activity was ended by the law of December 4 on the formation of the revolutionary government. By this law the supervision of the execution of the revolutionary laws in the departments was placed under the exclusive control of the districts. The law required that every ten days a report on all matters pertaining to the internal security of the country be made to the Committees of Public Safety and in all things concerning the police power to the Committee of Surveillance of the National Convention.[13] The application in practice of these laws, however, was to rest not upon the districts but upon the municipalities and the local revolutionary committees or the committees

[9] Decree of 14 Frimaire, year II (December 4, 1793), sec. III, article v, *Moniteur*, December 9, 1793, XVIII, 612. Of interest is a general communication of December 4 sent by the Committee of General Security to all departments. See Aulard, *Recueil . . . salut public*, IX, 169-172.

[10] *A.N.*, W2, No. 1.

[11] *Ibid.*, W12, No. 562 (September 26, 1793).

[12] Public prosecutor of the criminal tribunal of the department of the Oise to Fouquier-Tinville, October 4, 1793, *ibid.*, W11, No. 503.

[13] *Moniteur* December 9, 1793, XVIII, 611, sec. II, article vi. In Aulard, *op. cit.*, 173, the report on police matters, according to the instructions of the Committee of Public Safety, was to go to the Committee of General Security.

of surveillance. From hence would come to the districts, also every ten days, a report on the enforcement of the revolutionary laws and of measures of general security and public safety.[14] It was forbidden the authorities of the districts and municipalities to arrive at any decisions concerning persons under arrest or to liberate them without authorization from the National Convention, the Committees of Public Safety or General Security, the representatives on mission, or the tribunals.[15] The requirement that a report be made every tenth day quickly gave way before the demands for greater speed. In the law of January 7, 1794 (18 Nivôse), the districts were required to report within twenty-four hours either to the public prosecutor of the Revolutionary Tribunal or to the public prosecutor of the criminal tribunal of the department all evidence of crimes submitted to the districts by committees of surveillance or by officers of municipalities. The nature of the crime was to determine the tribunal having jurisdiction. Districts were to furnish to the proper court any information within their knowledge.[16] The national agents accredited to the districts were to supervise the observance of these provisions.

The application of the law of December 4, 1793, and its supplement of January 7, 1794, resulted in a veritable stream of correspondence between the districts and the public prosecutor of the Revolutionary Tribunal. The importance—though not the volume—of this type of work to the Tribunal can best be demonstrated by a few examples. The administration of the district of Breteuil (Eure) on December 24, 1793, sent to Fouquier-Tinville several documents containing evidence against an accused who had previously been lodged in the Conciergerie by order of the district. The representative on mission, Godefroy, somewhat confused about the date of the arrest, informed the Tribunal that there was the possibility that the prisoner, who had formerly been *procureur-syndic* of the district, was a persecuted patriot. On February 1, 1794, the quantity of evidence against this doubtful culprit was increased by the despatch of six additional documents from the district. The case ended on February 16, however, by certification from the section Finistère in Paris that the accused had died[17]—a fate that occurred frequently in the crowded prisons of 1794.

On March 29, 1794, the administration of the district of Riom (Puy-de-Dôme) sent to the Revolutionary Tribunal eight documents against Étienne Gros La Motte whom it charged with counter-revolutionary proposals.[18] The charges against La Motte and the documents in substanti-

[14] *Moniteur,* XVIII, article viii.

[15] *Ibid.,* article xii.

[16] *Ibid.,* January 9, 1794, XIX, 161, article v. The *Moniteur* carries this law as though it were the product of the session of January 8 (19 Nivôse).

[17] *A.N.,* W20, No. 1056.

[18] This type of charge was quite common. They are almost impossible to assay with any degree of success. As a whole, the writer believes that they constituted the most troublesome aspect of the Tribunal's work.

ation originated in the committee of surveillance of the canton of Aigueperse and were forwarded by the district in accordance with the law of January 7.[19]

Occasionally the evidence transmitted by the district to Paris contained not only the official records of the committees of surveillance and the municipalities but such personal effects of the accused as were regarded as relevant. Examples of such evidence were enclosed by the district of Angers (Maine-et-Loire) in the form of a letter written by a wife to her *émigré* husband in England,[20] another letter from Germany to a former nun living in the house with the wife, and, in another case, three false assignats alleged by the district of Boulogne-sur-Mer to have been circulated by a soldier of the Army of the North.[21] But not all of this material was injurious to the person under suspicion, for on May 4, 1794, the district of Brutus-Villiers (formerly Montivilliers, Seine-Inférieure) included a *mémoire* for the defense furnished by the accused.[22] At times, also, the district lodged charges against some suspect without previous action by the committees of surveillance or a municipality. Charles Butre, of Paris, was apprehended by the district of Tours (Indre-et-Loire) while trying to have his name removed from the list of *émigrés* of the department. As he could not prove residence in France since May 9, 1792, a charge was made against him to the Tribunal.[23]

The Tribunal during the entire period of its existence seemingly exercised care in securing the originals of the documents in question. Fouquier-Tinville wrote to the district of Moulins (Allier) on April 21, 1794, requesting the original documents concerning a prisoner already on his way to Paris, only to be informed that they were now unnecessary since that worthy had cut his throat at Chalôns.[24] On the same day the public prosecutor demanded the originals of some evidence of the district of Poutrieux (Côtes-du-Nord) and was sent three letters that had but come into the hands of the district.[25] In one such request for the original documents, May 17, 1794, less than a month before the period of most intense activity by the Tribunal, Fouquier-Tinville designated the kind of information in which the Tribunal was interested. He acknowledged the receipt from the district of Vic (Arriège) of the evidence against Marguerite Faron, a wool carder, and ordered that she be sent to Paris. With her should come the originals of all of the docu-

[19] *Ibid.*, W27, No. 1640.

[20] The administrators of the district of Angers to Fouquier-Tinville, May 3, 1794, *ibid.*, W34, No. 2047.

[21] The administrators of the district to same, May 14, 1794, *ibid.*, W25, No. 2212.

[22] The administrators of the district to same, *ibid.*, W33, No. 2016.

[23] The administrators of the district to same, June 6, 1794, *ibid.*, W39, No. 2579.

[24] National agent of the district of Moulins to Fouquier-Tinville, *ibid.*, W30, No. 1796.

[25] Administrator of the district to same, *ibid.*

ments and all of the "notes, pièces, et renseignements" in the possession of the district, and any information that would give the status of the suspect, the character of the crime, and anything else that would accelerate the operations of the Tribunal.[26]

More frequently than not the suspect was held in the prison of the district and not sent to Paris with the first charges lodged against him. Upon examination of the evidence the transfer to Paris might be ordered, and if necessary, a warrant for the arrest (*mandat d'arrêt*) was issued by Fouquier-Tinville. This was done, for instance, in the case of a counter-revolutionary of the district of Brutus-Villiers, who was accused of remarks tending to weaken the authority of the law. On the basis of the public prosecutor's warrant the district turned him over to the *gendarmerie nationale,* only to have him escape; he was retaken the following day near his home.[27] A person of the district of Clermont (Oise) accused of similar activities was sent to Paris on the same type of warrant,[28] while another of the district of Annecy (Mont-Blanc) escaped a like fate only through his release by terms of the law of 21 Messidor (July 9, 1794),[29] which directed the revolutionary committees to liberate provisionally "suspects" of the working classes, excepting only those who had carried arms against the country or were guilty of treason.

The work of the districts reached a peak during the months of April, May, June, and July, 1794. The impetus came in large part through the law of April 16, which provided that those suspected of conspiracy should be brought from all parts of France to the Tribunal in Paris.[30] The change in the procedure of the Tribunal under the law of June 10 added its full influence to the trend by increasing the capacity of the Tribunal to process the greater numbers sent to it.

After the overthrow of Robespierre and the reversion of the Tribunal to the slow procedure of early 1793 the work of the districts continued but in step with that of the Tribunal. By the end of the year the flow had completely stopped.[31]

The activities of the districts, as important as they were in the enforcement of the revolutionary laws, were based upon the work of others who initiated many of the cases by receiving the denunciations, holding the first hearings of the accused, investigating the charges at the local

[26] Fouquier-Tinville to the administrators of the district of Vic, *ibid.,* W34, No. 2150.

[27] Administrators of the district to Fouquier-Tinville, June 12, 1794; same to same, June 24; same to same, July 7, *ibid.,* W40, No. 2665.

[28] Administrators of the permanent council of Clermont to Fouquier-Tinville, July 5, 1794, *ibid.,* W44, No. 2946.

[29] Administrators of the district of Annecy to Le Blois, October 5, 1794, *ibid.,* W51, No. 3340.

[30] *Moniteur,* April 17, 1794, XX, 234-235.

[31] The last report from the administration of a district which this writer saw was that against Hébert, a member of the committee of surveillance of Lisieux (Calvados), on December 16, 1794. *A.N.,* W75, No. 4008.

level, and, frequently, arresting or safe-guarding the suspected person. This work as a rule fell into the hands of the officers of the municipalities and the committees of surveillance. The officers of the municipalities had a certain responsibility for the enforcement of the laws since they constituted, along with the justices of the peace, the *police de la surêté*. One case which reached the Tribunal in June, 1793, was begun by the municipal officers of Rouen on January 11—two months before the Tribunal was authorized—by the issuance of an order for Le Clerc, editor of the *Journal et chronique*, to appear before them for an examination concerning views expressed in a poster published by him.[32] About the time that the Tribunal decided its first case, the municipality of Vemantou (Yonne) questioned two soldiers on charges that they had made statements against the public interest. The report of the examination was given to the administrators of the department and the soldiers were sent to the Revolutionary Tribunal.[33] During the remainder of the year the municipal officers appear to have been quite inactive in the matter of counter-revolutionary activities and seldom participated in the transmission of suspects to Paris.[34]

The installation of the revolutionary government in December brought a great quickening of activity and the municipal officers gave a noticeable support to the work of the Tribunal. On February 4, a municipality near Rouen submitted to that commune a *procès verbal* stating that one citizen had expressed dangerous sentiments concerning the law of the maximum,[35] while shortly thereafter another arrived at the Tribunal in Paris by virtue of proceedings begun against him by the municipality of Merlens.[36]

The story did not vary a great during the remainder of the year. The usual charge was that of having held "*propos contre-révolutionnaires*." The accused was sent by the municipality to the *maison d'arrêt* of the district and from there, on order of Fouquier-Tinville, to the Conciergerie or some other prison in Paris to be held for the Tribunal.[37] From time to time, however, the work of the municipal officers varied from this pattern. An instance occurred when the municipality of

[32] *Ibid.*, W9, No. 402.

[33] Copy of the *procès verbal* of the administration of department of the Yonne, April 13, 1793, *ibid.*, W3, No. 73.

[34] On June 22, the municipality of Orléans received a complaint against a citizen suspected of favoring the return of the royal government (*ibid.*, W6, No. 256) and about the same time one of the sections of Lyon was attempting to intercede on behalf of Boissonat, an adjutant in the army, who had been sent to the Tribunal following an examination by the municipality (*ibid.* No. 244).

[35] National agent at Rouen to Fouquier-Tinville, *ibid.*, W23, No. 1214.

[36] Administrators of the district of Annecy to same, February 20, 1794, *ibid.*, W24, No. 1302.

[37] Typical of such cases were those coming from the municipalities of Gattenoy (June 25, 1794, *ibid.*, W44, No. 2946), Bouzie (*ca.* June 27, 1794, *ibid.*, W45, No. 3014), Praiscar (August 18, 1794, *ibid.*, W58, No. 3501), and Fourges (July 11, 1794, *ibid.*, W67, No. 3762).

Longvillers arrested a woman for being without her passport. An investigation made in Paris by the section Contrat Social at her demand secured her release but only for the moment as she was re-arrested by the district of Beauvais on the charge of expressing counter-revolutionary sentiments.[38] Another departure from the routine arose when the municipal officers of a village in the Ardennes gave a good character to a former monk.[39] Still another variation was a report referred to the Revolutionary Tribunal by the committee concerned with refugees from Liége, stating that the municipal officers of that city had found in its archives several documents that could serve as an indictment of the administration of Ronsin, a former general in that district.[40]

The participation of the municipal officers, however, was scarcely comparable in zeal or frequency with the work of the committees of surveillance,[41] "les sentinelles de la liberté."[42] These committees had been created as a result of the decree of March 21, 1793, and on September 16 were made primarily responsible for the enforcement of the "law of suspects" in their own *arrondissements*. Of some use to the Tribunal in 1793 they become of great importance in the enforcement of revolutionary law throughout the first half of 1794. Under the organization of the revolutionary government of December 4, 1793, the committees of surveillance were given extensive responsibility for the detection and arrest of those who were now enmeshed in the rather ample web of statutes defining counter-revolutionary activities. Although administratively under the oversight of the district governments they were, in fact, local concentrations of inquisitiveness and authority admirably adapted to the purposes of the Tribunal and the national government. Looking at revolutionary justice as a whole, these committees must be given pride of place in assigning any priorities of relative importance. It is the opinion of the writer that not far short of half of those who appeared before the Tribunal did so as a result of the activities and interventions of the revolutionary committees.[43] It

[38] Administrators of the permanent council of the district to Fouquier-Tinville, June 7, 1794, *ibid.*, W39, No. 2581.

[39] Mayor and municipal officers of the general council of the commune of Roc-Libre, May 16, 1794, *ibid.*, W49, No. 3211 *bis*.

[40] March 24, 1794, *ibid.*, W78, plaques 1 and 2.

[41] The committees were called by various names, such as *comité de surveillance, comité de surveillance et révolutionnaire,* and *comité révolutionnaire.*

[42] They were thus addressed by the Committee of Public Safety in its communication of December 4, 1793. Aulard *op. cit.*, IX, 166.

[43] It would be extremely tedious to examine the records of the individuals appearing before the Tribunal to determine in each instance what revolutionary agency initiated the charge. My estimate of the revolutionary committees extensive activities is based upon a sample of forty-three individuals selected at random and appearing before the Tribunal between June 1, 1793, and July 26, 1794. It was a revolutionary committee that initiated the procedure leading to the Tribunal in twenty of the forty-three instances. While the sample is too small to carry full assurance, it so completely confirmed my impressions that I am inclined to believe that the attribution is a just one. The factor that would be most

would seem that the representatives on mission and the revolutionary committees should have the starred positions in any evaluation of the auxiliaries of the Tribunal and that some special mention of the committees is justified before taking up a description of individual and typical committee activities.

The establishment of committees of surveillance was authorized by the National Convention on March 21, 1793.[44] These committees in each commune were to have the passive function of registering foreigners. According to Sirich the proposal for committees was a Girondin attempt to draw the teeth of earlier committees of surveillance established by the Commune of Paris under the authority of a law of August 11, 1792 and designed to detect and investigate enemies of the Republic.[45] The new committees during the spring and summer of 1793 were established in an irregular and haphazard manner and but few were in operation by September.[46] On the whole it seemed that from the standpoint of Girondin strategy the new committees were succeeding in the role that had been assigned to them. It was but a short time, however, until the Girondins were beyond interest and the committees in a process of transformation.

The law of March 21, 1793,[47] fully observed would have provided some 45,000 committees for France; those in activity reached the figure of 21,500.[48] Part of these committees were elected; even more were

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likely to upset the general validity of the sample—the sample did not reflect adequately the varying volume of activity of the Tribunal at different dates—would be likely to increase the part played by the committees as their activities were known to be much greater in 1794 while the sample paid perhaps too much attention to 1793.

[44] *Moniteur,* XV, 760.

[45] J. B. Sirich, *The revolutionary committees in the departments of France* (Cambridge, 1943), p. 15. It was the hope of the Girondins that the new committees would replace the old—in which the Girondins recognized a threat—and in turn die for lack for anything important to do.

[46] *Ibid.,* p. 19.

[47] Representatives anticipated the law in the organization of committees. In the Indre-et-Loire, for instance, a committee of five members—all administrative officers—was formed on March 17 by Goupilleau de Fontenay and Tallien. On April 24 the committeee had already gone through an *épuration.* See H. Faye, "Les sociétés populaires dans le département d'Indre-et-Loire" *Revue de la Révolution,* IX (1887), 485-486.

[48] A. Lallié, *Le comité révolutionnaire de Nantes,* (Vannes, 1901), p. 4. The number of committees goes far in explaining possible differences in the interpretation of their activities. Sirich, for instance, states that "the committees had little part in bringing the guillotine to the departments, or in furnishing the machine on the Place de la Révolution at Paris with likely subjects" (*op. cit.,* p. 150). This may appear altogether true from an examination of the papers of the committees, yet appear highly questionable from an examination of the records of the Tribunal. Suppose, for instance, that one committee in four sent one person to the Tribunal: from the point of view of the committees the activity would go almost unnoticed; from the point of view of the Tribunal it would result in over five thousand prisoners. This point must be kept in mind in the present evaluation of the function of the committees in the application of revolutionary justice.

appointed by the representatives on mission or the local authorities. In some instances the formation of a committee would result from the impulse of citizens, some came from the interest of local Jacobin Clubs, some were formed by municipalities, while others sprang from the zeal—and especially after the law of September, 1793—of representatives on mission.[49] As early as April 5, for instance, representatives reported to the Committee of Public Safety from Orléans that "les comités de surveillance sont formés dans toutes les sections,"[50] while from Riom, on September 25, Couthon wrote that he had established committees in all the *chef-lieux* of the districts and in many communes.[51] About the same time an *arrêté* was issued by the representatives in the northeast demanding the establishment of *comités de sûreté générale,* composed of at least seven citizens of proven patriotism, in every city or village of a thousand population in the departments of the Nord, Pas-de-Calais, Somme, and the Aisne.[52] In Lyon the representatives reorganized the sectional revolutionary committees and made them subordinate to a central municipal committee of surveillance,[53] while to the north, in Bergues, the formation of a revolutionary committee on September 28, and its exceptional activity in October-December, later prompted M. Moreel to state that from the earlier date "la terreur à Bergues commence."[54] Whatever the origin and however scattered in time, by September the committees had reached a degree of activity that made a deep impression upon the revolutionary system of France.

This activity expressed itself in several ways for the committees took on a great deal of local coloration and at no time were they reduced to uniformity of action or indeed to any identical conception of their proper function. In Arras, the principal object of the committee during the fall of 1793 was the apprehension of *émigrés*[55]—perhaps the most popular quarry of all the committees. The Arras committee concerned itself with the families of *émigrés*—but agreed that the civism of children of fourteen or under should not be questioned—with such zeal that forty families were arrested in a single day.[56] In the active center of

[49] F. Rouvière, *Histoire de la Révolution française dans le département du Gard,* (4 vols.: Nimes, 1887-1889), IV, 142.

[50] Aulard, *op. cit.,* III, 101.

[51] *Ibid.,* VIII, 65.

[52] G. Sangnier, *La terreur dans le district de Saint-Pol, 10 août 1792-9 thermidor an II* (2 vols.: Blangermont, 1938), I, 266.

[53] E. Fayard, *Histoire des tribunaux révolutionnaires de Lyon et de Feurs,* (Paris, 1885), p. 88.

[54] L. Moreel, *La société populaire de Bergues. 1789-1795* (Lille, 1926), p. 108.

[55] A. J. Paris, *Histoire de Joseph Le Bon et des tribunaux révolutionnaires d'Arras et de Cambrai* (Arras, 1864), p. 98.

[56] *Ibid.* The *émigrés* constituted a numerous group. In the Moselle, for instance Gain estimates that 12 out of each 1000 were *émigrés* and subject to inscription on the departmental list. It is his further estimate that among the departments, the Moselle was in fifteenth to twentieth place in the proportion of its population to leave the country in violation of the laws on emigration. The total emigration

Lyon the committees in each section received denunciations and brought the "suspects" before the central committee of surveillance which sat in two bureaus: the first bent its efforts to the discovery of rebels, issued warrants of arrest, and administered confiscated property; the second conducted interrogations of the accused, supervised the prisons, and received the declarations of the prisoners.[57] Lyon, however, with its local facilities contributed little to the Tribunal in Paris. At Péronne, the first act was to draw up a list of the suspects in accordance with the recent "law of suspects"; almost 70 names were inscribed between October 3 and October 9.[58] Committees served the commission of Orange as powerful auxiliaries in the summer of 1794. They prepared lists of *émigrés*, denounced and imprisoned "suspects," and dispatched to the *greffier* of the commission all of the assembled documents, denunciations, and evidence concerning the accused.[59] In writing of the troubled center of Nantes, Lallié concludes that the measures of the committees —their "froide cruauté"—were so well taken that had the period of the terror lasted longer not a single suspect would have escaped.[60]

In certain parts of France exceptional action was sometimes taken. In the Basses-Pyrénées, for instance, it was found to be impossible to form committees outside of the municipalities even for the simple task of watching the strangers. Only a few of the villages could yield men capable of fulfilling this task. Three representatives on mission improvised a suitable arrangement on April 8, 1793, when they authorized the establishment at Pau of a *Comité de Salut Public* to supervise the suspects, receive denunciations, and to oversee the application of the laws on *émigrés*, refractory patriots, and subsistence.[61] This innovation was approved on April 20 by the national Committee of Public Safety;[62] in Pau, however, the popular society established a committee of its own to supervise the newly installed patriots.[63] By a local decree of August 12, 1793, the revolutionary committees of the department of

for France was quite large and gave ample scope to committees interested in the *émigrés* and their families. The lists were prepared by the municipalities having absent residents and passed to the districts, which after investigation declared those named to be *émigrés*. These lists were then sent to the department which caused them to be printed for circulation. By 1793-94 the lists were appearing at weekly intervals. See A. Gain, *Liste des émigrés déportés and condamnés pour cause révolutionnaire du département de la Moselle* (2 vols.: Metz, 1932), I, 22 and 24.

[57] Fayard, *op. cit.*, p. 88.

[58] G. Ramon, *La Révolution à Péronne*, 5e et 6e séries (Péronne, s.d.), pp. 22-27, 35-42, and 54-55.

[59] Abbé S. Bonnel, *Les 332 victimes de la commission populaire d'Orange en 1794* (Orange, 1884), p. 34.

[60] Lallié, *op. cit.*, p. 3.

[61] A. Richard, *Le gouvernement révolutionnaire dans les Basses-Pyrénées*, (Paris, 1926), p. 64.

[62] Aulard, *Recueil . . . salut public*, III, 359.

[63] Richard, *op. cit.*, p. 66.

the Doubs received a statement of their duties which included the preparation of a list of the suspects, issuance of the warrants of arrest, and the placing of seals upon the papers of the accused. Commanders of the public force were to execute the warrants immediately. Arrests, however, were not to be ordered except by majority vote in a committee of at least seven; motives for the arrest and any personal papers of the prisoner must be communicated at once to the Committee of General Security.[64] One of the fullest statements of the organization of an early committee is found in a description of the operation of the committee at Béziers. This committee, formed after the decree of March 21, was composed of twenty-five members, required nine for a quorum, and administered an oath upon induction stressing republican faith and zeal. Any member missing three consecutive meetings was to be replaced. Special members were appointed to handle the correspondence and from five to seven o'clock each day a rotating sub-committee was to sit and hear complaints and denunciations. Sunday was the day for reports; all business was to be held scrupulously secret; all denunciations were to be signed or if by an illiterate two witnesses were required. Authorities were to be duly notified and affiliated groups kept informed of the good example being set by the committtee.[65]

These committees, described by the Committee of Public Safety as the hands of the body politic of which the Convention was the head and the Committee itself the eyes,[66] once formed and set in motion drew their authority and zeal from several statutes of fundamental importance. Authorized by the law of March 21 to register and watch over strangers, their responsibilities were extended to a more dangerous group, the "suspects," defined with a vagueness that invited prosecution in the decree of September 17, 1793.[67] This law launched the committees that were so minded into a feverish activity that led to the preparation of many lists and innumerable arrests. The third great statute—that of December 4 (14 Frimaire)—attempting to place some restraint and impose some order upon the activities of both national and local authorities in the localities, integrated the committees into a centralized structure of revolutionary government.[68] While imposing a new organization characterized by a rotation of committee presidents and secretaries and a subordination to a new official called the national agent who was to receive the ten day reports of activities, the new law added efficiency and some uniformity but did not perceptibly change the essential activi-

[64] J. Sauzay, *Histoire de la persécution révolutionnaire dans le département de Doubs de 1789 à 1801* (10 vols.: Besançon, 1866-1873), IV, 483.

[65] A. Soucaille, *Historique de la société populaire de Béziers* (Béziers, 1892), pp. 62-63.

[66] Aulard, *op. cit.*, IX, 167.

[67] *Moniteur,* September 19, 1793, XVII, 680-681.

[68] For a discussion of the intent and success of this law see Sirich, *op. cit.,* p. 120-121; for the law see *Moniteur,* December 9, 1793, XVIII, 610-613.

ties of the committees. The Ventôse decrees utilized the committees as the collectors for the Committee of General Security of information about those under local arrest and opened a vast field for committee activity that would have been intensively utilized had not the events of Thermidor stopped the work before it got well started.[69]

Finally local committees were ordered by the National Convention to recommend to the committees of the district capital the provisional release from jail of peasants and rural labor except when the charge amounted to treason.[70] Under this law of 21 Messidor (July 11, 1794) the process of emptying the prisons began just prior to 9 Thermidor.[71]

The activities of the committees were reflected in innumerable arrests. Most of these were ended by the ultimate release of the prisoner; many ended in an appearance before one of the local revolutionary tribunals, revolutionary commissions, or the criminal tribunal of the department using a revolutionary procedure; some were sent to the Tribunal at Paris. The total arrests attributable to the committees ran, in all probability, well over 100,000; here we can give a few illustrations of the arrests of particular committees in this work.

In the district of Saint-Pol, for instance, 132 of the 154 communes of the district arrested a total of 1460 individulals. A few of these, however, were arrested two and even three times so the total number of arrests ran to 1,576. The heaviest harvest came in the months of Ventôse and Germinal with 237 and 226 arrests.[72] This district was for a while under the jurisdiction of Lebas and Saint-Just and had good cause for exceptional effort. It is also of interest that although special attention was given to former nobles only 6.9% of the total arrested was made up of this group.[73]

In another part of France the departmental revolutionary committee of the Gard issued three hundred warrants for arrest in a period of two months. This committee was suppressed by the law of 14 Frimaire and therefore missed the liveliest period of activity.[74] In the same department a committee formed at Nîmes on 3 Ventôse had issued 409 warrants by the end of the revolutionary year.[75] In the department as a whole the number arrested or ordered to be arrested passed 3,700.[76] Although the administrative officials had the authority to issue warrants of arrest it seems altogether likely that the bulk of this work was done by the revolutionary committees.[77] Of 132 sent to Paris from Nantes,

[69] See Sirich, *op. cit.*, 179-184; also *infra*, p. 146, n. 11.

[70] *Moniteur*, July 11, 1794, XXI, 184.

[71] Sirich, *op. cit.*, 188-194. The evidence indicates a general and speedy observation of the law.

[72] Sangnier, *op. cit.*, pp. 334-336.

[73] *Ibid.*, p. 338.

[74] Rouvière, *op. cit.*, IV, 22.

[75] *Ibid.*, p. 140.

[76] *Ibid.*, p. 154.

[77] *Ibid.* A sampling of the arrests enumerated here indicated that somewhat over half of the total was instigated by the revolutionary committees of this department.

the greater part had been arrested by the Compagnie Marat, a special and paid group used by the committees to effect their arrests.[78] In the troubled areas of France this pace of arrests could have been matched by several who were in the vanguard of revolutionary activities.

It was recognized that the level of arrests might spring from a zeal not entirely revolutionary. From Avignon, representatives on mission wrote to the Committee of Public Safety that use had been made of the authority of the revolutionary committees to make arrests for personal vengence and for the safe despoilment of the accused.[79] An occasional effort was made to link cupidity with patriotism by offering a reward for denunciations. At l'Isle a proclamation was posted beside the list of *émigrés* offering a reward of 100 livres for the denunciation of an *émigré* or his family.[80] An identical reward was offered in the department of the Doubs to any who pointed out a repatriated *émigré*.[81] In the eagerness displayed by some committees, even trial and acquittal by the Tribunal in Paris did not assure that one would not be rearrested on returning home.[82]

In the welter and turmoil of frenzied arrests and crowded prisons an attempt was made to introduce some order into the confusion and at the same time provide the Tribunal with the opportunity for a general oversight of local activities—if it had time to spare from its own activities and prisons—by the preparation of reports known as *tableaux des suspects.* In prepared columns this listed the name of the prisoner and supplied essential information concerning his arrest, the charge upon which he was being held, and the social class with which the committee identified him.[83] These documents amounting, where complete, to an inventory of the prisons forced the work of the committees into a common mold but only a small fraction of those who should have been included ever found their revolutionary misdeeds reduced to this simple record.

This treatment *en bloc* has given a view of the committees as part of the machinery of revolutionary justice; what is also needed is a more particular view of the committees revealing their typical operations as they bore directly upon the Tribunal in Paris.

In the early months, although the committees were not at first conspicuous for energy, several cases exhibiting their vigilance did reach the Tribunal. On April 16, 1793, a citizen attempting to secure a cer-

[78] A. Lallié, "La Compagnie Marat et autres auxiliaires du comité révolutionnaire," *Revue historique de l'Ouest,* XIII, 314.

[79] Aulard, *Recueil . . . salut public,* VIII, 247. November 5, 1793.

[80] J. de Joannis, *Le fédéralisme et la terreur à l'Isle (Vaucluse)*, (Avignon, 1884), p. 222.

[81] Sauzay, *op. cit.,* IV, 143.

[82] L. de Cardinal, *La province pendant la Révolution. Histoire des clubs jacobins* (Paris, 1929), p. 432.

[83] An example of this interesting form may be found in *A.N.,* W81, No. 80. Sauzay, *op. cit.,* III, 809-818; and IV, 672-753 may also be used.

tificate that he had taken the civic oath was sent before the directory of the department of Paris and from there to the Tribunal by the committee of surveillance of the section of Mont Blanc. He was believed to be an *émigré*.[84] Later in the same month a suspect was sent by a committee in the department of the Saône-et-Loire for publicly demanding a king.[85] During the summer and autumn a few additional evidences of committee activity are to be found.

It was not, however, until the winter of 1794 that the revolutionary government began to utilize fully the fervor and zeal of the patriots comprising the committees. The sudden increase revealed a wide variety of activities, but most were of a recurring nature, so that the work of the committees can well be described through the use of typical examples. On the first day of the year the committee of surveillance of the department of Paris, for instance, considered that it had discovered in Mercier the author of a work entitled *Oeuvres libres d'un citoyen qui ne l'est pas.* Mercier was sent to the Conciergerie and a copy of the work sent to Fouquier-Tinville.[86] A few days later the public prosecutor received from the committee of surveillance of the commune of Melûne a notification that it was sending F. F. Dufour, a former secretary of Bailly, to Paris. This was being done at the request of Goissel and Pillon, representatives on mission, and the committee was careful to point out that Dufour was not suspected of a crime but was merely a "suspect."[87] In Grenoble during the same month by order of the Committee of General Security the committee of surveillance delivered two patriots of doubtful fervor to the gendarmerie to be transferred to Paris,[88] while the committee of Autûn, as a matter of security, ordered that J. L. Goutte, bishop of that diocese, be removed from the local prison and held in that of Mâcon, until he could be taken to Paris.[89]

The activities of the committees of surveillance often extended to searches. For example on February 12, 1794, the committee of the section of Guillaume Tell in Paris, at the request of Fouquier-Tinville, searched the house of citizeness Baune. In this case the committee was forced to admit that it found no letters or assignats, possibly because several hours earlier two *huissiers* had carried away two huge brief cases which may have contained the desired evidence.[90] From time to time the committees also found themselves responsible for the issuance

[84] *A.N.*, W1, No. 51.

[85] Committee of public safety to the public prosecutor, April 29, 1793, *ibid.*, W3, No. 164.

[86] *Ibid.*, W19, No. 976.

[87] January 9, 1794, *ibid.*, W20, No. 1039.

[88] Committee of surveillance of Grenoble to the Committee of General Security, January 22, 1794, *ibid.*, W20, No. 1039.

[89] National agent in the district of Autun to Fouquier-Tinville, February 11, 1794, *ibid.*, W23, No. 1248.

[90] Committee of surveillance of the section of Guillaume Tell to Fouquier-Tinville, *ibid.*, W20, No. 1123.

and execution of warrants of arrest. A typical example was the enforcement of a warrant against three suspects at Mittainville.[91] The person to be arrested did not need to be within the territorial jurisdiction of the committee, since it could rely upon the other revolutionary agencies to carry out the orders of arrest. The committee of Fontenay-le-Peuple informed Fouquier-Tinville that a former member of the brigands at Fontenay was now in Paris and suggested that he make the arrest.[92] Then, too, there was the request from the committee of the section of Quinze-Vingts in Paris to the section of Montreuil to arrest Violet, a nephew of a grain merchant who had just been sentenced to execution by the Revolutionary Tribunal.[93]

The committees received frequent complaints, which they followed by investigations of their own, one part of which usually included an examination (*interrogation*) of the accused. The records of both complaint and examination were usually sent to Paris, although in a few instances the local committees submitted them to the criminal tribunal of the department, where it was left to the decision of the criminal judges whether or not the case should be referred to Paris.[94] Where more than one suspect was involved, the committee as a rule prepared a dossier for each, and in the communication to the Revolutionary Tribunal the number of documents in each dossier, or an inventory of the documents, might be given.[95] One of the most interesting parts of the dossier prepared by the committees were the *tableaux* such as those prepared by the commitee of surveillance of the commune of Pont against six accused.[96] These *tableaux* have received an earlier recognition.[97]

The committees also took cognizance of the violation of certain economic and military legislation. Their vigilance extended to matters of provisioning, and on June 12, 1794, the section of the Panthéon denounced the commune of Maintenon for attempting to force a farmer to sell his butter and cheese in the local market instead of taking them to Paris; the Committee of Public Safety sent a complaint against the

[91] Copy of the register of deliberations of the committee of surveillance of Mittainville, March 30, 1794, *ibid.*, W32, No. 1939.

[92] June 15, 1794, *ibid.*, W42, No. 2824.

[93] Revolutionary committee of the section of Quinze-Vingts to Fouquier-Tinville, June 16, 1794, *ibid.*, W41, No. 2761.

[94] Committee of surveillance of Poitiers to the president of the criminal tribunal, April 28, 1794; public prosecutor of the department of Vienne to Fouquier-Tinville, May 1, 1794, *ibid.*, W33, No. 2042.

[95] Committee of surveillance of the commune of Orléans to Fouquier-Tinville, April 27, 1794, *ibid.*, W33, No. 1962. See also the letter of the committee of surveillance of Mézières to same, September 4, 1794 (containing an inventory that mentions the complaint, the copy of the register of the committee, and the testimony of four witnesses), *ibid.*, W35, No. 3429. A complaint of the committee of surveillance of the department of Paris against Lazarre contains eight separate entries, March 12, 1794, *ibid.*, W36, No. 2288.

[96] National agent of the district of Nogent-sur-Seine to Fouquier-Tinville, May 12, 1794, *ibid.*, W81, No. 80.

[97] See *supra* p. 92.

commune to Fouquier-Tinville.[98] Desertions from the army and opposition to the requisitions for troops received an even closer scrutiny. Toward the end of May a deserter was under detention by the revolutionary committee of the section of the Gardes-Françaises for having left his company at Lille and come to Paris without permission.[99] A few days later the committee of the section of the Faubourg-du-Nord sent evidence to Fouquier-Tinville against Pierre Simon, who was charged with having violated the first law requisitioning troops for the defense of France and the revolution.[100] Those guilty of hoarding came under the scrutiny of the committees and upon the report of the section of Guillaume Tell the Committee of General Security ordered that a hoarder be sent, with all the evidence, to the Revolutionary Tribunal.[101] Another major controversy of the revolution, that involving religion, came within the purview of the committees. Fouquier-Tinville was informed on April 15, 1794, that a woman named Marie Bounacy had been denounced by the revolutionary committee of Villiers for having expressed sentiments against those who opposed religion.[102] It is also of interest that the revolutionary committees became involved in the famous case of Catherine Théot, the alleged "Mother of God" and presumed friend of Robespierre, and that the section of the Contrat Social held Toinette Gauterrot for over a month after her interrogation as a possible witness in this case.[103] Meanwhile the two great Committees and the Tribunal attempted to come to some decision as to the political advisability of bringing the case of Théot and her accomplices before the Tribunal.

While a study of the records would lead to the conclusion that almost all of the committees were loyal to the revolutionary authorities a uniformity of zeal amongst several thousand committees would be too much to expect. Some were lax and indifferent and worked at all only under prodding. On May 3, 1794, for example, the national agent and the administrators of the district of Nogent-sur-Seine (Aube) expressed doubt over their chances of securing information concerning a former priest named Rousseau. In this instance Rousseau apparently had the protection of the committee of surveillance of Baerdonnay where he had been permitted to remain at liberty despite daily proof of his bad conduct.

[98] Copy of the register of the revolutionary committee of the Panthéon, June 21, 1794; Committee of Public Safety to Fouquier-Tinville, n.d., *ibid.*, W58, No. 3486.

[99] Collet, Commissioner of War, to Fouquier-Tinville, June 1, 1794, *ibid.*, W37, No. 2442.

[100] Revolutionary committee of the section of the Faubourg-du-Nord to Fouquier-Tinville, June 9, 1794, *ibid.*, W38, No. 2506.

[101] *Arrêté* of the Committee of General Security, n.d., *ibid.*, W45, No. 2957.

[102] Administrators and national agent of the district of Nogent-sur-Seine to Fouquier-Tinville, April 15, 1794, *ibid.*, W30, No. 1827.

[103] Revolutionary committee of the section of the Contrat Social to same, July 25, 1794, *ibid.*, W60, No. 3556.

There is no evidence that the committee heeded the remonstrances of the district authorities.[104] The national agent of the district of Françiade (Seine), the revolutionary name of Saint-Denis, complained over the slowness of the committee of Auteuil in sending requested evidence. There was here, however, no question of refusal.[105] As a matter of fact, refusal on the part of a committee to arrest a specified person did not of necessity reflect indifference. In exceptional cases it seemed permissible for committees to hold suspects in special custody under the guard of one of its members and without an actual commitment to jail.[106]

Any familiarity with the extensive records of the Revolutionary Tribunal emphasizes the important part played by the revolutionary committees in the work of revolutionary justice. This was true of Paris; it was perhaps doubly true of certain of the local revolutionary tribunals and commissions. Several who have worked with the history of particular committees or with committees in particular areas have noticed and commented upon the activities of the committees as purveyors to the revolutionary tribunals. Montarlot contends that much of the responsibility for revolutionary justice rests upon the committees for the tribunals, in many instances, merely confirmed the decisions taken by these local bodies.[107] Their work came especially into high and dramatic relief following the law of 14 Frimaire.[108] Vercier, speaking of the department of the Hérault, called the revolutionary committees one of the two principal auxiliaries of the public prosecutor.[109] Another has called attention to the fact that the committees were part of the plan to take local government from the hands of Girondins and place it in the hands of true patriots.[110] It is not surprising that they were considered the most revolutionary institution of the Revolution[111] and sure and dependable agents of the central authorities.[112]

The revolutionary committees often found their work dominated, supplemented, or paralleled by the activities of other groups created on a more informal basis yet yielding to no one in works of revolutionary ardor. These were the Jacobin clubs and popular societies. During 1793 and the greater part of 1794 these groups, and especially the

[104] Administrators and national agent of Nogent-sur-Seine to Fouquier-Tinville, May 3 and 9, 1794, *ibid.*, W31, 1897.

[105] National agent to same, May 25, 1794, *ibid.*, W34, No. 2151.

[106] Public prosecutor of the criminal tribunal of the department of the Haute-Marne to same, May 27, 1794, *ibid.*, W39, No. 2574.

[107] P. Montarlot, *Les accusés de Saône-et-Loire aux tribunaux révolutionnaires*, (Autun, 1901), p. 4.

[108] *Ibid.*

[109] J. Vercier, *La justice criminelle dans le départment de l'Hérault pendant la Révolution* (Montpellier, 1925), p. 175.

[110] M. E. Sarot, *La terreur dans le département de la Manche et en particulier les habitants de la Manche devant le tribunal révolutionnaire de Paris* (Coutances, 1877), pp. 69-70.

[111] A. Lallié, *Le comité révolutionnaire de Nantes* (Vannes, 1901), p. 4.

[112] Sangnier, *op. cit.*, p. 327.

mother society of the Jacobins in Paris, through the political influence of their members and the fact that they represented the ascendant philosophy of the revolution, became in a real sense the keepers of the revolutionary conscience and moulders of revolutionary opinion. Here one found "la Révolution en déshabillé."[113]

It was but natural that these societies should have an interest in the establishment of the Revolutionary Tribunal and an inclination to contribute to the volume of its work. The decree of the National Convention of March 9, providing for the Tribunal *en principe* was reported immediately to the Paris Jacobin Club.[114] During the remainder of the spring several strong speeches were delivered there castigating the new Tribunal for its slowness and its slavish adherence to existing legal formalities. It is not without interest that Bentabole, who, along with Desfieux, seemed to be a goad to the fiercer spirits of the Club, considered the Tribunal from its very beginning as an instrument of political warfare in the sharpening struggle between right and left.[115] Moreover, in Fouquier-Tinville the Club had a member who could serve as a perfect conductor by which the spirit of the Club, entered the activities of the Tribunal.[116]

Enemies of the country who should suffer the judgments of the Tribunal were pointed out from the tribune of the Club. Robespierre usually took the lead. On March 13, 1793, two days after the enabling legislation, he called for the full use of the Tribunal against the *émigrés*, the generals who had betrayed their country, and the hoarders who appeared to have erected their starving of the markets into a widespread system;[117] by March 29 this had heightened into an appeal for the people throughout France to arouse themselves and crush the internal enemies of the country, "sans cela tout est perdu."[118] On May 8, the same speaker pointed to the Girondins in expanding his list of all those who had "blasphemed" against the country.

During the spring, the Club heard some sanguinary speeches. Twelve heads per day were being demanded of the Tribunal while one ardent member spoke of the necessity of 100,000 heads falling to save 24,000,000.[119] Already the demand was being made for the arrest and execution of deputies and bureaucrats as the price of defeating counter-revolution.[120] Robespierre demanded that the laws adequate for the legal exterminaiton of the "nos ennemis" be enforced by the Tribunal;[121]

[113] M. E. Sarot, *Les sociétés populaires et en particulier celles de Coutances pendant la première révolution* (Coutances, 1880), p. 2.

[114] A. Aulard, *La Société des Jacobins* (6 vols.; Paris, 1889-1897), V, 79. The club had heard a proposal for a tribunal as early as March 3 (*ibid.*, p. 64).

[115] *Ibid.*, p. 81 (March 10, 1793).

[116] See *supra* p. 16.

[117] *Ibid.*, p. 89.

[118] *Ibid.*, p. 112.

[119] *Ibid.*, pp. 129-130 (April 7 and 8).

[120] *Ibid.*, p. 130.

[121] *Ibid.*, p. 180 (May 8).

the Tribunal riposted with the accusation that the Convention had refused to give it the personnel required for its energetic operation.[122]

The attack continued into the summer. In August, Robespierre compared the speed of the Tribunal disparagingly with that of the *anciens parlements*.[123] He demanded that it be reformed to give quick judgments, that several revolutionary committees be created to aid in the handling of the numerous crimes continually being committed against liberty, that the Committee of General Security be reduced to ten men, and that a clear demarcation be made between the work of this committee and the Committee of Public Safety.[124] As early as August, therefore, much of the opinion that led to the September reorganization of the tribunal had been expressed in the Jacobin Club's criticism of the Tribunal's operations, and certain features of the revolutionary organization that was to take place on December 4, 1793, had been forecast at their sessions.

During this period also, the Club had entertained definite accusations calling for the trial of Gorsas, a member of the National Convention, and Gerey-Dupré, a Jacobin, who were to be denounced to the Tribunal by Hébert,[125] the leader of the *Enragés,* and for the denunciation of Brissot and his Girondin friends to the Tribunal.[126] A juror of the Tribunal reported to the Club on the trial of Kolly—who had been condemned for conterfeiting assignats on order of the *émigré* princes—in which an account was given of counter-revolutionary activities.[127] By August, several members of the Tribunal were under attack by the Club,[128] and Desfieux, a former member of the extraordinary Tribunal of August 17, pointed out that one tribunal could not judge 1600 suspects,[129] and followed this with the reiteration of a demand for ten or twelve tribunals with a procedure unhampered by formalities.[130] With the division of the Tribunal into four sections in September and the selection of the increased personnel, criticism was somewhat diminished. For awhile the slowness in trying the Brissotins caused discontent. The

[122] *Ibid.*, p. 185.
[123] *Ibid.*, p. 341.
[124] *Ibid.*, p. 377.
[125] *Ibid.*, p. 167 (April 28, 1793).
[126] *Ibid.*, p. 193 (May 17, 1793). This was a demand from the *sans-culottes* of Metz. A similar demand from the citizens of Arcis-sur-Aube arrived on June 7 (*ibid.*, p. 234). The Club had on June 3 established a commission to receive proof of the guilt of the Girondins (*ibid.*, p. 226).
[127] *Ibid.*, p. 174 (May 3, 1793).
[128] *Ibid.*, pp. 377-378 (August 25-26, 1793), Fleuriot-Lescot defended his patriotism before the club; a letter was read from Dumont, a member of the jury; Duplain and several others were denounced.
[129] *Ibid.*, p. 385 (September 1, 1793). There had been several denunciations against members of the Tribunal and suggestion for at least twelve tribunals in Paris and a reduction in the size of the Committee of General Security (*ibid.*, pp. 378 and 368).
[130] *Ibid.*, p. 386.

willingness of the Tribunal to hear large numbers of witnesses was especially infuriating. Chaumette castigated the Tribunal with the accusation that it had become an ordinary tribunal, "il juge les conspirateurs comme il jugerait un voleur de portefeuille . . ." and insisted upon a demand at the Convention that it "délivre le Tribunal de toutes les formes superflues dans les jugements de ces coupables"[131] (the Brissotins). It seems clear, however, that this turning-point in the Tribunal's history was welcomed as the triumph of Jacobin principles. As Gauthier, one of several by that name in the Club, pointed out almost all of the new numbers of the Tribunal were Jacobins of zeal and purity.[132]

From September 1793, until July 1794, the Club followed the activities of the Tribunal with close attention. At the end of October, reports on the trial of the Brissotins were heard by the members.[133] Denunciations were launched[134] and the Club authorized its committees to communicate to the public prosecutor any pertinent evidence that might come to their attention.[135] At the same time the Club conferred an "accolade fraternelle" upon some who had been acquitted by the Tribunal,[136] and upon one occasion voted a delegation to accompany seventeen acquitted citizens back to their home town.[137] By May 1794, the interest of the Club focused upon the *"défenseurs officieux"* as a useless luxury in a revolutionary society.[138] During the month of July several members of the Tribunal were admitted or brought before the Club for *épuration."*[139] Amidst this lively interest, however, perhaps the most striking role was that played by Dumas, the president of the Tribunal.

To an appreciable extent Dumas became the reporter of the Tribunal to the Jacobin Club. Although several men with this name participated in the sessions of the club, it was undoubtedly the Dumas of the Tribunal who invited the Jacobins to give to Fouquier-Tinville any information which they might have concerning new conspiracies,[140] and who gave a digest of the testimony of over four hundred witnesses in the trial of Hébert.[141] It was also Dumas who foreshadowed one of the most important changes to be effected in the Tribunal's procedure by the law of 22 Prairial (June 10, 1794) when he spoke at the Jacobins against allowing a citizen of Nogent, accused of having manufactured some daggers, to have the benefit of counsel in his defense. At this

[131] *Ibid.*, p. 481 (October 28).
[132] *Ibid.*, p. 425 (September 27, 1793).
[133] *Ibid.*, pp. 487-488.
[134] *Ibid.*, p. 505.
[135] *Ibid.*, VI, 4.
[136] *Ibid.*, V, 614.
[137] *Ibid.*, V, 534.
[138] *Ibid.*, VI, 120 and 162.
[139] *Ibid.*, VI, 203, 219, and 230.
[140] *Ibid.*, p. 681-82 (March 13, 1794).
[141] *Ibid.*, VI, 40 April 2, 1794).

time he said that "the tribunal ought to work alone, for the judgment of a case is determined by the nature of the complaint and the conscience of the jury, and since the tribunal dispenses a severe and prompt justice, counsel for the defense could not help but retard its speed."[142] It was undoubtedly true that the activity of the Tribunal from 22 Prairial to 9 Thermidor best pleased the Jacobin Club, and it is also certain that this Club had done much to prepare public opinion for this period of maximum operation and to encourage the Tribunal to undertake the harsh intensity of this work.

Outside of Paris the various Jacobin Clubs and popular societies acted as though they were unofficial committees of surveillance. The clubs as a rule worked through the local authorities, although upon occasion they corresponded directly with the Jacobin Club in Paris or with Fouquier-Tinville. From the municipality of Caen, for instance, came a copy of the debate that had occurred in the popular society of the municipality concerning some counter-revolutionary proposals alleged to have been made by Dauyand,[143] a *commissaire* of the Committee of Public Safety. The municipality of Cahors sent a copy of the deliberations of the popular society of Calamène in the matter of Marmiese, a tanner suspected of similar proposals.[144] Another instance was presented on July 3, 1794, when Fouquier-Tinville was called upon to decide whether the information sent by the popular society of Delle against Mouchet, a former agent of an *émigré* and who had shown himself on several occasions to be an enemy of the public welfare, warranted action by the Tribunal.[145]

While the clubs as a rule acted on the basis of zeal they were nonetheless official agents on occasion. They were, for instance, authorized by the Convention on September 13, 1793, to prepare lists of suspects in the army and to forward the lists to the Committee of Public Safety;[146] somewhat later they were granted concurrent powers with the "autorités constituées" to oversee the administration of subsistence and military clothing; also they received the invitation to furnish information upon the decrees of the local authorities relating to the *émigrés* and their property.[147] They had from the beginning exercised an oversight on strangers. All of these subjects closely touched the work of the Tribunal.

The popular societies frequently exercised a jealous and intense

[142] *Ibid.*, p. 162 (May 30, 1794).

[143] Fremanger, representative of the people to Fouquier-Tinville, April 9, 1794, *A.N.*, W30, No. 1743.

[144] Public prosecutor of the department of the Lot to same, June 15, 1794, *ibid.*, W41, No. 2745.

[145] The Commission of Civil Administration, Police, and Tribunals to same, July 3, 1794, *ibid.*, W45, No. 3006.

[146] de Cardenal, *op. cit.*, p. 473.

[147] *Ibid.*, pp. 472-473.

supervision over the exercise of local government,[148] and in one instance, at least, membership on a revolutionary committee was conditional upon membership in the local Jacobin club.[149] The experience of local clubs was utilized to secure suitable judges of the provincial revolutionary tribunals[150] and upon occasion research committees were formed to aid in police work.[151] Two clubs expressed views or created methods of detection that were somewhat novel. At Cherbourg, the Jacobin Club proposed that all of the kings of Europe be brought before the Revolutionary Tribunal;[152] at Tours, the Club hoped for a somewhat less exalted clientele by maintaining at the door of its meeting place a "bouche de fer" to receive denunciations.[153]

As a rule the clubs were also equally as energetic in securing the release of patriots wrongfully arrested as they were in prompting the arrest of suspects. Perhaps more than the real committees of surveillance they extended their vigilance to seeing that no patriots suffered at the hands of a Tribunal unaware of their true character. There were several illustrations of this policy of giving evidence *à décharge* as well as *à charge*. The popular society of Rennes submitted to the Ministry of Justice a *tableau* setting forth the patriotism and "vie révolutionnaire" of Delauney, the concierge of the prison at Rennes, who had been tried by the Tribunal and although acquitted had been held in prison as a precautionary measure.[154] In May, 1794, the popular society of Excideuil informed the Jacobin Club in Paris that Margueritte Moulignier, who had just been sent to the Revolutionary Tribunal by her enemies on the charge that she had expressed anti-civic sentiments, was nevertheless a true *sans-culotte* and had two brothers fighting at the front; unfortunately, the society added, she was often under the influence of red wine. A similar letter was sent to Fouquier-Tinville.[155] The society of Reims was so convinced of the innocence of one Chentier, suspected of counter-revolutionary proposals, that it requested an immediate trial as the best method of securing his release from prison.[156] In an indictment involving several persons the popular society of Blanc came to the conclusion that three suspects were not guilty of mutilating a statue of liberty, and hoped that the Tribunal would so decide, while four

[148] Richard, *op. cit.*, pp. 60-61.
[149] F. Mugnier, *Le club des Jacobins de Thonon* (Paris, 1898), p. 129.
[150] A. J. Paris, *Histoire de Joseph Le Bon . . .*, pp. 98-99.
[151] Sarot, *op. cit.*, p. 69.
[152] *Ibid.*, p. 93.
[153] H. Faye, "Les sociétés populaires dans le département de l'Indre-et-Loire," *Revue de la Révolution*, X (1887), 25.
[154] Minister of Justice to same, March 12, 1794, *ibid.*, W8, No. 379.
[155] *Ibid.*, W2, No. 1.
[156] Popular and regenerated society of Reims to Fouquier-Tinville, May 13, 1794, *ibid.*, W34, No. 2149.

others were given a letter of good conduct up to the time of their arrest.[157]

The activities of these clubs is an evidence of the extent to which the enforcement of revolutionary justice became the concern of groups and individuals having little legal obligation to participate. Taking the local groups as a whole there is little wonder that Sarot comments: "avec un tel ensemble de surveillants les malveillants ne devaient guère avoir de repos."[158]

[157] Copy of the register of the popular society of Blanc, March 1 and 2, 1794, *ibid.*, W2, No. 5.

[158] Sarot, *La terreur dans le département de la Manche . . .*, p. 72.

CHAPTER V

THE TRIBUNALS AND THE POLICE

The revolution, even though it made much good use of executive and administrative officers in the enformement of its justice, could not afford to neglect the possibilities presented by the judicial officers and the hierarchy of courts. One of the great tasks of the Constituent Assembly in 1791 had been the reorganization of the judicial system of France, and now the revolution had ready at hand new courts staffed by elective officials who represented, on the whole, an attitude of mind which permitted them to work in harmony with the developments of 1793 and 1794. From the point of view of obtaining this cooperation, it was fortunate that the Assembly's reorganization of the judicial institutions and personnel had occurred. By breaking the continuity of the old judicial organization, the government reduced appreciably the possibility that the judicial hierarchy might, from its entrenched position, attempt to thwart the efforts of the other branches of the government to apply the rigorous principles of revolutionary justice.

The reorganization of criminal procedure and the system of tribunals, embodied in the decrees of September 16 and 29, 1791, marked a complete break with the procedure and structure of courts established by the ordinance of 1670. The new courts and the procedure of the early revolution gave a protection to the accused that, in certain respects, went beyond anything offered by English courts at the same time. In this new procedure three distinct stages were set forth for the determination of guilt or innocence.[1]

A new cantonal officer, the justice of the peace, became responsible for the initiation of the case. He received the complaint, issued a warrant (*mandat d' amener*) for the appearance of the accused, and heard the witnesses in a preliminary investigation. In certain instances the justice could act on his own volition but usually he proceeded on the basis of a complaint put before him by a private citizen. After this preliminary examination he could release the accused if convinced of his innocence or order his detention on a second warrant (*mandat d'arrêt*) for further investigation. In certain instances officers of the gendarmerie could exercise the functions of a justice. In general, the powers of the justice partook of both a judicial and political character.

[1] A. Esmein, *A history of continental criminal procedure*, trans. John Simpson, Vol. V of "The Continental Legal History Series" (11 vols.; Boston, 1913), pp. 408-419. A more recent work divides the phases of the procedure of 1791 into four parts: initiation, preliminary investigations, accusation, and judgment (R. Roblot, *La justice criminelle . . .*, p. 62). The essential difference, however, is in the division rather than the procedure.

If the accused were held he was sent, along with the documents in his case, from the canton to the chief place of the district where he came under the authority of the grand jury. This jury of eight under the chairmanship of a director, who was always one of the judges of the district court, saw all of the documents except those containing the depositions of witnesses, heard witnesses orally, and then determined whether or not there existed "grounds" for the complaint. The key figure up to this point was the director of the grand jury. It was his duty to take the lead in the examination of the accused. He might, in certain instances, with the concurrence of the district court, dismiss the complaint. When this concurrence was lacking, he was charged with the responsibility for preparing the indictment (*acte d' accusation*) for the consideration of the jury. This *acte* was an "exposé précis et exact des faits."[2]

Should the grand jury find sufficient grounds the case was next sent to the appropriate criminal court. One of these courts, composed of three judges and a president, a public prosecutor, the king's commissary and a jury of twelve, was established in each department. It was the duty of the bench to pronounce the punishment once the jury had determined the facts. The new procedure before these courts relied heavily upon counsel for the defense and oral testimony. The only documents to be presented for the consideration of the jury were the indictment and the official reports. It was a procedure ill adapted to haste and calculated to give considerable advantages to the defendant, but the system was staffed with officials who were often willing to lend themselves to the more strenuous pace of revolutionary justice and the Tribunal.

Undoubtedly the most valuable and active assistance in the enforcement of the revolutionary laws was given by departmental criminal courts. Had no special tribunals been erected to care for the enforcement of the new laws concerning counter-revolutionary activities, these courts would have been responsible for the trial of most of the cases arising under the revolutionary laws. It was recognized from the very beginning that a number of cases assigned to the Revolutionary Tribunal by the terms of the law of its establishment might actually be under trial or pending in the criminal courts of the departments. To provide for this possibility the National Convention decreed that all cases within the jurisdiction of the Revolutionary Tribunal that had not been ended by a final judgment of a criminal court should be referred to the new Tribunal for trial and judgment.[3]

[2] *Ibid.*, p. 65.

[3] A copy of this decree of March 11, 1793, may be found in the records of the Tribunal, *A.N.*, W9, No. 180. On March 20, the National Convention received a protest against the transfer of a case from the tribunal of the department of the Nord. *Ibid.*, C250, No. 411.

This decision of the Convention according to Roblot, came from the fact that those who plotted against the safety of the state were tried before the ordinary criminal tribunals of the departments and there regularly acquitted.[4] While this estimate of clemency may be somewhat excessive there is little doubt that the Convention was interested in supplementing its political powers with an ample and active judicial authority.

It was this change of jurisdiction that prompted the public prosecutor of the criminal tribunal of the department of the Gers, who apparently was uninformed of the suppression of the Committee of Six by the National Convention, to refer the evidence in a pending case to that committee.[5] This act on the part of the public prosecutor was in fulfilment of a decision of April 7 by his tribunal following an examination by it of a defendant and the witnesses who testified in the case.[6] Thus almost at the same time that the Revolutionary Tribunal began its first case, a criminal tribunal in a distant department declared its lack of jurisdiction in a case in which the initial steps had been well taken. A similar declaration was made many times over in various tribunals and resulted in the concentration of a number of trials in Paris which would ordinarily have occurred in widely scattered parts of France.[7]

Of equal importance was the practice of the criminal tribunals of sending with transferred persons the accumulated tribunals records for the information and use of the Paris Tribunal. The criminal tribunal, as a rule, sent this evidence to the Revolutionary Tribunal while the accused remained under arrest in the prison attached to the departmental tribunal. After an examination of the evidence had established grounds for possible action an order was sent by the public prosecutor of the Revolutionary Tribunal to the local court demanding the dispatch of the prisoner to Paris. So again we find that frequently the separation of the innocent from the guilty took place, within rough limits, while the accused was still at a distance from Paris. This method of selection —found operating in almost all of the local institutions purveying to the Revolutionary Tribunal—contributed importantly to the high proportion of convictions in the cases tried by the Tribunal itself.

Examples of the practice of sending prisoners held by the criminal

[4] Roblot, *op. cit.*, p. 31. Combier also speaks of this leniency in his work on criminal justice at Láon (A. Combier, *La justice criminelle à Láon pendant la révolution* [2 vols.: Paris, 1882], I, 53).

[5] Public prosecutor of the criminal court of the department of the Gers to the Committee of Six, April 11, 1793, *ibid.*, W3, No. 81.

[6] An inventory of documents, *ibid.*

[7] Public prosecutor of the criminal tribunal of the department of the Haute-Garonne to Fouquier-Tinville, May 21, 1793, *ibid.*, W4, No. 179; same of the department of the Hérault to same, November 3, 1793, *ibid.*, W15, No. 655; same of the department of the Haute-Marne to same, April 26, 1794, *ibid.*, W32, No. 958; and same of the department of the Isère to same, July 12, 1794, *ibid.*, W43, No. 2880.

tribunals to Paris are not difficult to find. On January 4, 1794, for instance one was sent by the criminal tribunal of the department of Mont Blanc,[8] and on June 15 three others were remanded by the tribunal of the department of the Lot.[9] Occasionally, however, this transfer of prisoners from the departments to Paris became unnecessary, for the representatives on mission could confer upon the local tribunals the privilege of using the revolutionary procedure. Such a privilege was granted to the Tribunal of the department of the Meuse by Mallarmé, who authorized it to judge *révolutionnairement* in the case of several suspects from Verdun.[10] While many tribunals received authority—as that of the Meuse—to administer revolutionary justice, all criminal tribunals were for certain purposes by national law to use the revolutionary procedure. On December 20, 1793 (30 Frimaire, an II) the National Convention imposed the revolutionary procedure on all tribunals in cases involving recruiting, emigration, and the printing and distribution of false *assignats*.[11]

A good example of the unwillingness of a criminal tribunal to employ the special procedure, when acting in a revolutionary capacity, unless especially authorized to do so was provided by the tribunal of the department of the Aude. On October 10, 1793, the public prosecutor of the Aude sent to the National Convention all of the evidence against a man named J. T. Boyer, suspected of statements tending to weaken and disrupt the National Convention. The prosecutor admitted that the criminal tribunal believed itself unable to proceed with the questioning of the accused.[12] The case was finally brought before the Revolutionary Tribunal through the intercession of the Committee on Decrees of the Convention.[13]

The question of the jurisdiction of the criminal tribunals in certain borderline cases must have caused some concern, for as late as May 24, 1794, the tribunal of the Haute-Marne was uncertain as to whether or not it could hear the case of two workers who were suspected of having interfered with the manufacture of arms.[14] There is room for belief that in such circumstances the departmental tribunals referred the cases not only to the Revolutionary Tribunal but to the National

[8] Public prosecutor of the criminal tribunal of the department of Mont Blanc to same, *ibid.*, W19, No. 1030.

[9] Same of the department of the Lot to same, *ibid.*

[10] Same of the department of the Meuse to same, July 15, 1794, *ibid.*, W63, No. 3654. Greer has an extremely valuable table of the courts and commissions administering revolutionary justice. This lists 84 criminal tribunals and the number of death sentences imposed by each. See Greer, *The Incidence of the Terror*, Table I, pp. 135-143.

[11] *Moniteur*, December 21, 1793, XIX, 14.

[12] Letter of October 10, 1793 *ibid.*, W12, No. 563.

[13] *Exposé* n.d., *ibid.*

[14] Public prosecutor of the criminal tribunal of the department of the Haute-Marne to Fouquier-Tinville, *ibid.*, W36, No. 2360.

Convention as well. This was especially true during the confusion that followed the events of 9 Thermidor, year II.[15]

In addition to serving as departmental judicial agencies for the initial steps in cases involving counter-revolutionaries, the departmental tribunals at times took the initiative in the discovery and arrest of suspects. On June 25, 1794, the tribunal of the department of the Indre informed Fouquier-Tinville that it had taken all measures for the discovery of those who had circulated a counter-revolutionary pamphlet in the department, and had proceeded to the arrest of two persons.[16] From the department of the Allier, on the same day, came the information that a surgeon had been acquitted of the charges lodged against him but his statements before the criminal tribunal had led to his being considered as an enemy of the country.[17] The willingness and ability of these criminal tribunals to take the initiative in the campaign against counter-revolutionary activities was again attested by the preparation of a history of several cases by the tribunal of the Var to aid the Revolutionary Tribunal in its prosecutions.[18] A similar willingness was shown by the president of the the criminal tribunal of the Meuse who neglected nothing to discover those who had sheltered a woman declared to be *hors de la loi*.[19]

The Revolutionary Tribunal, then, in its operations found the criminal tribunals not only worthy auxiliaries when using the revolutionary procedure but also valuable aids in the initiation of cases and the preparation of the evidence against the accused who were later transferred to Paris.[20] In the harmonious relationships between the two kinds of

[15] The Commission of Civil Administration, Police, and Tribunals to the public prosecutor of the Revolutionary Tribunal, August 13, 1794, *ibid.*, W51, No. 3337; same to same, August 19, 1794, *ibid.*, W58, No. 3491.

[16] *Ibid.*, W65, No. 3719.

[17] Public prosecutor of the criminal tribunal of the department of the Allier to Fouquier-Tinville, June 25, 1794, *ibid.*, W44, No. 2947.

[18] Same of the department of the Var to same, July 10, 1794, *ibid.*, W56, No. 3437.

[19] President of the criminal tribunal of the department of the Meuse to the public prosecutor of the Revolutionary Tribunal, n.d., *ibid.*, W50, No. 3283.

[20] An interesting comparison could be made—though this is not the place for it—between the criminal tribunals using the newly prescribed procedure of the code of 1791 and the Revolutionary Tribunal with its procedure custom-made for an institution of revolutionary aggression. One or two interesting points may here be indicated. For instance the very close resemblance of the initial procedure used by the Tribunal and that utilized by the departmental criminal tribunal is noted by Thomas in his work on the tribunal at Nancy. (See H. Thomas, *Le tribunal criminel de la Meurthe sous la révolution* (Nancy, 1937), pp. 187-229. This account traces in detail the procedure used in the case of Pierre and Joseph Hériat, accused of "vol agricole," from their apprehension through the court of cassation). More striking, however, is the fact that the tribunal of the Meurthe using the ordinary procedure in its work reached a proportion of convictions that did not leave too much advantage with the Revolutionary Tribunal. During the period from February 15, 1792 to April 15, 1793 of 96 individuals appearing before the tribunal, 70 were found guilty. The succeeding period—April 15 to July 29, 1794—showed a marked alteration with only 85 of 205 found guilty.

courts one finds a judicial union that brought the revolution of 1790 and 1791 into collaboration with that of 1793 and 1794. Almost without exception the other executive and administrative institutions that acted with the Revolutionary Tribunal in the enforcement of revolutionary justice owed their origins to the same conditions and the same ideas that had created the Tribunal itself. This was not true of the co-operating judicial institutions, for they had sprung from the dawn rather than the hot noon of the revolution. The fact that co-operation between the two was so full and so easy is persuasive testimony that the emotional and intellectual development of the revolution had affected judges as well as politicians.

Occasionally the Revolutionary Tribunal received cases from the military criminal courts.[21] Most important, however, were the activities of the district courts, which as a rule approached the Tribunal through the national commissioners accredited to each district tribunal to supervise its operations and to protect the national interest. These tribunals had been created by the judicial reforms of 1790 and were concerned primarily with the trial of civil cases. In their aid to the

Thomas concludes, however, with the summary that for the revolutionary period as a whole the tribunal at Nancy pronounced 402 condemnations and 271 acquittals —the percentage of condemnations in the total running just under 60%. (*Ibid.*, pp. 291-308, 308-349, and 555.) While absolute accuracy is impossible, according to the count provided in Tables I and II (see *infra* pp. 137, 142) 5283 persons appeared before the Revolutionary Tribunal; of these 1273 were acquitted and 973 dismissed for lack of evidence while 2747 were sentenced to death, 32 deported, 44 sentenced to prison, 163 detained, and 51 referred to another tribunal. This would mean that around 58% of those tried were considered guilty or at least objects of suspicion. This figure is lower than that of the criminal tribunal of the Meurthe. The matter becomes even more intriguing in view of the fact that Thomas tells us that in 1910 73% of all appearing in the department of the Meurthe-et-Moselle were convicted and in 1933 76% (Thomas, *op. cit.*, p. 563). Two other sets of figures have fallen under my attention. Combier reports that from March 15, 1793 to July 27, 1794 the Tribunal at Láon acquitted about 60% of those appearing for ordinary crimes (Combier, *op. cit.*, pp. 79-81). These figures are not so striking as those of Thomas. In between Nancy and Láon would come the activities of the Tribunal at Agen. Here in 1793 and 1794 of 142 persons appearing on ordinary charges 73 were convicted and 69 acquitted—a percentage of convictions of over 51% (A. Douarche, "Notes sur la justice et les tribunaux à Agen pendant la révolution," *La Révolution Française*, XXIV [1893], 35). The relative proportions of convictions and acquittals in the criminal courts and the Revolutionary Tribunal should be an interesting comparison and one not entirely lacking in insight into the impact of revolutionary justice upon the emotions and imagination. Several suggestions come to mind but certainly one of the most powerful is that the Revolutionary Tribunal in Paris—and perhaps others in the localities—by a concentration of cases led to an impression of judicial voracity based on the volume of cases rather than on the disposition of cases. This possibility of comparison is thrown in as a suggestion to some young man with great energy, strong eyes, a good prospect for longevity, and a patience for working with figures that defy complete dependability.

[21] Public prosecutor Morand of the military criminal tribunal of the Army of the Alps attempted to get the cases of Seriziat and Rigat before the Revolutionary Tribunal (June 8, 1794, *A.N.*, W37, No. 1794) while Certain was sent before it by the tribunal of the École de Mars (August 22, 1794, *ibid.*, W57, No. 3479).

Revolutionary Tribunal they followed the same pattern of action as the criminal tribunals, although they seemingly, and understandably, did not have the difficult problem of jurisdiction to contend with and there apparently existed the possibility for a considerable amount of independent action by the national commissioners. Here again the bulk of the work was the submission of evidence for the consideration of the Revolutionary Tribunal and, upon order from some higher authority, the transfer of the accused to Paris.

A typical instance of this work can be cited in the report of the district tribunal of Rions that a tanner had hidden leather at a time when there was great demand for it for soldier's shoes. This charge, made on July 26, 1794, was still pending as late as September 3, when Le Blois, Fouquier-Tinville's successor as public prosecutor, wrote to the district tribunal of Rions to demand the submission of originals of the documents.[22] Another case, originating in the tribunal at Péronne, resulted in the declaration of its jury that an agitator had been guilty of attempting to diminish the courage of two artillerymen at a time when their regiment was already weakened by desertions.[23] From the district of Beauvais came an accusation that the national agent and a merchant were guilty of selling faulty materials to the military hospitals of France. A week later the national commissioners sent the Revolutionary Tribunal two samples as evidence in the case.[24]

An indication of the possibility of independent action by the national commissioners was revealed by the submission to the Revolutionary Tribunal of additional information in the case of Ludinard, his wife, and accomplices who were then before the Tribunal in Paris as "liberticides." This evidence consisted of the record of testimony of witnesses heard by Mogue, a national commissioner, while crossing the district of Rethal as a deputy for the representative on mission, Levasseur.[25]

The problem of securing the testimony of witnesses, or even of finding the proper witnesses for the case, often was entrusted to the tribunals of the district. On June 27, 1794, the national commissioner of the tribunal at Rethal notified Fouquier-Tinville that he had fulfilled the instructions of the Revolutionary Tribunal in getting witnesses in the case of an inn keeper suspected of counter-revolutionary activities.[26] A month later the district of Chaumont submitted a list of witnesses against a group of five who were under suspicion as harborers

[22] The members of the tribunal of the district of Rions to the public prosecutor of the Revolutionary Tribunal, July 26, and *ca.* September 8, 1794, *ibid.*, W59, No. 3522.

[23] Copy of the register of the jury of the district court of Péronne, January 25, 1794, *ibid.*, W23, No. 1177.

[24] National commissioner of the tribunal of the district of Beauvais to Fouquier-Tinville, April 8 and 16, 1794, *ibid.*, W30, No. 1723.

[25] National commissioner of the tribunal of the district of Sedan to same, June 23, 1794, *ibid.*, W55, No. 3429.

[26] National commissioner of the tribunal at Rethal to same, June 27, 1794, *ibid.*, W39, No. 2578.

of sentiments against the republic.[27] As late as November 5, 1794, when the slower pace of the Revolutionary Tribunal should have made such an error more unlikely, the national commissioner of the tribunal at Tours received an order intended for the district of Montglonne requesting that witnesses be summoned to testify in the case of a former monk.[28] The activities of the district tribunals, as a rule, fell within the scope of the other institutions already examined—the provision of grist for the mill.

The work of the tribunals was supplemented by that of the grand jury (*jury d'accusation*) and the justices of the peace, two additional innovations of the judicial reforms placed in operation in 1791. The function of the *jury d'accusation* was to determine whether the suspect should undergo trial, and if so its director was to prepare the formal charges (*acte d'accusation*). The *jury d'accusation* was obviously confronted in some cases with the question of whether the crime in question did or did not belong to the jurisdiction of the Revolutionary Tribunal. The distinction was not always clear, for on June 5, 1794, the national commissioner at Cluses reported to Fouquier-Tinville that the *jury d'accusation* had erroneously referred a case to the criminal tribunal of the department that should have been sent to the Tribunal in Paris.[29] As late as May 1, 1794, there was still some doubt in the *jury d' accusation* of the department of Paris as to whether charges of hoarding should be sent to the Revolutionary Tribunal or tried in the ordinary courts.[30] An occasional case came to the Revolutionary Tribunal on charges launched by these juries.[31]

The justices of the peace were very useful in hearing initial charges and in the preparation of the papers required as a part of the evidence. In this work the justices acted as *juges commissaires*. For instance, charges were made before the justices of the peace of the canton of Beaujeun in a case involving the integrity of the national representatives. On July 1, 1794, they sent a copy of these charges to the Revolutionary Tribunal.[32] Three weeks later the national agent of Falquemont informed Fouquier-Tinville that a grave crime had been reported to the justice of the peace there.[33] On occasion, the justice of the peace might issue the warrant of arrest for the apprehension of the suspect,[34] but

[27] National agent of the district of Chaumont to same, July 23, 1794, *ibid.*, W24, No. 1425.

[28] National commissioner of the tribunal of the district of Tours to Le Blois, *ibid.*, W41, No. 2732.

[29] National commissioner of the tribunal at Cluses to Fouquier-Tinville, *ibid.*, W40, No. 2694.

[30] Vavier, director of *jury d'accusation* to same, *ibid.*, W33, No. 2021.

[31] Gohier, Minister of Justice, to same, June 16, 1793, *ibid.*, W5, No. 240; public prosecutor of the criminal tribunal of the department of the Doubs to same, July 16, 1794, *ibid.*, W50, No. 3286.

[32] Administrators of the district of Villefranchie to same, *ibid.*, W67, No. 3787.

[33] National agent at Falquemont to same, July 23, 1794, *ibid.*, W53, No. 3379.

[34] Report of *gendarmerie nationale*, department of the Moselle, April 3, 1793, *ibid.*, W2, No. 4.

his greatest contribution was the preparation of the legal documents essential to the trial. Such documents were compiled at Sarrebourg in May, 1793, when a coachman suspected of emigration was questioned by a justice of the peace;[35] at Tonnerre, in November, when a justice of the peace heard the testimony of witnesses in a case that had originated two months earlier;[36] in the canton of Valien, in the summer of 1794, when a justice of the peace drew up a record of the legal hearings in the arrest of a soldier charged with desertion.[37] From time to time the problem of supplying the evidence went beyond the usual documents. Thus, in June, 1793, a justice of the peace at Le Mans, on order of the general council of the department of the Sarthe, prepared an *état moral* of a resident of Le Mans who had been denounced the preceding month.[38] Another service to the Tribunal came from Alençon where a justice of the peace, after preparing and sending documentary evidence in the case of Itier, a warehouse man, climaxed his previous efforts by drawing up a history of the case and submitting it to Le Blois.[39]

The work done by the justices of the peace elsewhere was largely done in Paris by the administrators of the police of the commune of Paris. The arrest of suspects occupied a prominent place in this work. As some of these suspects, however, were likely to be referred to the Revolutionary Tribunal, the preparation of documentary evidence suitable for such a reference had to be undertaken. Just before June 21, 1793, the administrators of the police of the commune questioned a man suspected of emigration. The record of this examination was sent by the *procureur-général-syndic* of the department of Paris to Fouquier-Tinville.[40] Similarly the administrators of the police sent the testimony of a witness who claimed that the deputy Manuel had attempted to save Louis XVI by making two lists during the voting in the Convention on the fate of the king.[41] One of the first steps in the case of Marie-Olympe de Gouges, well known for her Girondin sympathies, was her appearance for questioning before Louvet and Baudrais, administrators of the police, on July 20, 1793, and again on July 22. Her disclosures concerning the printing of a poster bearing the title *Les trois urnes, ou le salut de la patrie* and a report of her relations with certain

[35] Inventory of the evidence against Louis Michaud, May 31, 1793, *ibid.*, W6, No. 246.

[36] Justice of the peace at Tonnerre to Fouquier-Tinville, November 19, 1793, *ibid.*, W11, No. 761.

[37] Directory of the district of Vendôme to same, June 27, 1794, *ibid.*, W53, No. 3396.

[38] *Procureur-général-syndic* of the department of the Sarthe to same, June 15, 1793, *ibid.*, W3, No. 166.

[39] Justice of the peace at Alençon to Le Blois, August 26, 1794, *ibid.*, W37, No. 2398.

[40] *Procureur-général-syndic* of the department of Paris to Fouquier-Tinville, June 21, 1793, *ibid.*, W6, No. 253.

[41] Administrators of the police of the commune of Paris to same, October 15, 1793, *ibid.*, W295, No. 246.

of the Girondins were sent to the public prosecutor and became a part of the evidence in her trial before the Revolutionary Tribunal.[42] In the case of the Hébertists, the administrators were active in taking the depositions of witnesses. On March 18, 1794, Dangé, an administrator, questioned a concierge of the prison of La Bourbe, a concierge of the prison of Sainte-Pélagie, a prison guard, and a former lawyer, all on the subject of General Ronsin and his associations with Hébert.[43] In November, 1793, the administrators of the police questioned a number of persons regarding Proly, an ex-merchant then living on his income, and his former servant Bompard.[44] In addition the administrators of the police issued orders for the search of the residences and the effects of those falling under their scrutiny,[45] and for the security of papers and documents held under seal.[46] Formal notices of the death in prison of those awaiting trial were sent to the administrators of the police, by whom a permanent record was kept.[47]

Outside of Paris agencies of the police seemingly played no part equal in prominence to that just described. The records of the Tribunal create the impression that outside of Paris police action was restricted to the valuable and unobtrusive services of the national gendarmerie. Among these services one of the most trying was that of conveying prisoners from the local prisons to Paris whence they were sent—or from whence they had been summoned—to appear before the Revolutionary Tribunal. Accompanying the prisoners, and also under the care of the police escort, went many of the local records for the archives of the Tribunal.

The process of transferring the prisoners was an interesting one. As a rule the order authorizing the transfer would be issued by Fouquier-Tinville. In obvious or dangerous cases, however, the order might be dispensed with and the local authorities assume the responsibilities for the referral of the prisoners and the evidence. The order stated that certain persons should be conducted by the national gendarmerie from brigade to brigade (*brigade en brigade*) to the prisons of the Revolutionary Tribunal in Paris. It was such an order from the public prosecutor of the department of the Finistère that called upon the gendarmerie to conduct an accused to Paris, taking with him

[42] *Ibid.*, W293, No. 210.

[43] *Ibid.*, W78.

[44] Interrogation of Bompard, November 23, 1793; of Catherine Oliver, November 24; of Joachim de Busscher, November 26 and 27; of Maynat, November 27; of Lenoir, November 29; of Maris Cancus, December 2; of Champgrand, December 21; and a second interrogation of Catherine Oliver, January 5, 1794, *ibid.*, W76, No. 9.

[45] See, for instance, the order for the search of the residence of de Gouges, July 19, 1793, W293, No. 210.

[46] Department of police to Fouquier-Tinville, April 25, 1794, *ibid.*, W2, No. 1. The seals in questions were placed on a chamber previously occupied by Dupréménil, who had been condemned to death.

[47] Death of M. J. Lagaye, April 22, 1794, *ibid.*, W16, No. 694, and the death of J. C. Legent, October 25, 1794, *ibid.*, W45, No. 2949. Both of these deaths occurred in the hospital of the Revolutionary Tribunal.

the documentary evidence that had been gathered by the criminal tribunal.[48] The delivery of the prisoners and the evidence in Paris was acknowledged by the issuance of a receipt to the gendarmes last in charge.[49] Frequently several days were required for the journey. In such circumstances an itinerary was prepared and the gendarmes were required to secure a receipt from each commandant of the national gendarmerie at the battalion headquarters along the way. The receipt stated the time of arrival and departure.[50] Along the route the maintenance of the prisoners was a responsibility of the local authorities who were required to provide three sous per day per person for this purpose.[51] The expenses of the prisoner could be subtracted from his personal funds if any money had been found upon him at the time of his arrest or came into his possession during the period of his imprisonment.[52] The number of days involved, the overnight stops, the opportunities for corruption, and the relaxation of vigilance resulted in a rather large number of escapes.[53]

In addition to this important function the gendarmes were available to execute warrants of arrest[54] or to keep suspicious individuals under

[48] Public prosecutor of the department of the Finestère to Fouquier-Tinville, February 8, 1794, *ibid.*, W24, No. 1408.

[49] Gobert, concierge of the prison of the Abbaye, to the gendarme Gaineaux, May 3, 1793, *ibid.*, W3, No. 110.

[50] National gendarmerie route for the transfer of D'Ailly from Amiens to Paris, n.d. (the prisoner was to leave Amiens on October 12, 1793), *ibid.*, W11, No. 535. An interesting account of the transportation of a large group from Nantes to Paris can be found in the archives of the Tribunal (*ibid.*, W506). This narrative, dated 7 Frimaire, is by one of the suspects and in its 49 page length gives many incidences of the journey. This same account may be found in *The reign of Terror, a collection of authentic narratives of the horrors committed by the revolutionary government of France . . .* (2 vols.: London, 1826), II, 301-347. Some of the journeys involved considerable time and transport. Four convoys transporting 78 persons from the Var to Paris required 39, 46, 41, and 36 days for the journey (An itinerary of the trip may be found in E. Poupée, *Le tribunal révolutionnaire du Var* [Draguignan, 1911], p. 87). Treatment often depended upon the humanity of the jailor; the prisons were full everywhere (*ibid.*, pp. 188-190).

[51] Captain of the national gendarmerie of the department of the Yonne, *ca.* April 30, 1793, *ibid.*, W3, No. 73. The expenses of transportation were by no means light. The *greffier* of the Revolutionary Tribunal was authorized to advance sums to cover this expense and to recover his outlays at the end of the month on an account certified by the president of the Tribunal and the Minister of Justice and signed by the Committee of Finance of the National Convention (*A.N.*, W508). A bill may be seen in *ibid.*, W502 for the transportation of two prisoners from Lorient to Paris. The total sum was for 1605f 5c less 1200f that had already been received. The statement was composed of 34 items. It was paid on 30 Frimaire II by Fabricius and bore the signature of Herman and the acknowledgment of payment by Dauban and Rénéjan.

[52] Administrator of the district of Samur to Fouquier-Tinville, May 27, 1794, *ibid.*, W39, No. 2540.

[53] Administrator of the district of Brutus-Villiers to same, July 6, 1794, *ibid.*, W40, No. 2665; national commissioner of the tribunal of Samur to the public prosecutor, n.d., *ibid.*, W51, No. 3319; and administrator of the district of Nice to Le Blois, August 12, 1794, *ibid.*, W56, No. 3433.

[54] Probat, justice of the peace, to the gendarmerie of Arnay, March 22, 1793, *ibid.*, W3, No. 74.

guard in their homes.[55] The notification to witnesses that they had been summoned to give testimony was entrusted to the gendarmerie and to the *huissiers* of the various tribunals.[56] In Paris the gendarmerie was responsible for the safeguard of the prisoners in their passage from the various prisons to the Revolutionary Tribunal.[57]

In few instances the national guard participated in the arrest of a suspect or was made responsible for his safekeeping. A citizen passing through the commune of Vieux Mauvir was arrested by the national guard as he had neither a certificate of good citizenship nor a passport.[58] In the commune of Pont l'Évêque the mayor and municipal officers placed a suspected agent of the Duke of Orléans under the care of a member of the national guard whose lack of vigilance contributed to his escape.[59]

In addition to such lesser services, however, the national guard of the commune of Paris was of considerable assistance to the Tribunal in providing that the public sessions of the Tribunal should not be disturbed and that the sentences of death passed by the Tribunal should be carried out without interference. This was a necessary precaution at the trials of individuals of influence and political reputation about whose persons and fortunes demonstrations might be organized. On March 24, 1794, Fouquier-Tinville requested Hanriot, commandant of the armed forces of Paris, to take all measures necessary to preserve the public tranquillity and to send a detachment of troops to the court at the Palais de Justice to accompany Hébert and eighteen fellow-conspirators to their execution on the Place de la Révolution.[60] A few days later Herman, the president of Tribunal, requested Hanriot to supply a force adequate to ensure the calm of the Tribunal and its surroundings during the trial of the Dantonists.[61] Again in the trial of the former members of the *Parlement* of Paris, a request was made for troops to maintain order as trials of this character usually attracted a large number of spectators.[62] Thus the work of the Tribunal was carried out under the protection of the armed forces of the Commune of Paris.

As our examination of the relations of the administrative, judicial, and police agencies of the national government with the Revolutionary Tribunal reveals, the Tribunal was but one institution in a complex

[55] Committee of General Security to Fouquier-Tinville, July 4, 1793, *ibid.*, W6, No. 272. The two individuals, Robert and Prévot St. Lucine, succeeded in escaping from the gendarmes on guard.

[56] *Ordonnance* for the summoning of witnesses, September 11, 1793, *ibid.*, W9, No. 380.

[57] Fouquier-Tinville to the warden of the prison of Bicêtre, July 16, 1793, *ibid.*, W6, No. 248.

[58] National agent to Fouquier-Tinville, n.d., *ibid.*, W69, No. 3814.

[59] Gohier to the president of the Revolutionary Tribunal, May 11, 1793, *ibid.*, W15, No. 653.

[60] Requisition of Fouquier-Tinville, *ibid.*, AF II 48, No. 372.

[61] Herman to Hanriot, April 1, 1794, *ibid.*

[62] Fouquier-Tinville to same, April 20, 1794, *ibid.*

f many institutions, all having as a purpose in common the suppression f counter-revolutionary activities and the elimination of the dangers at threatened the internal and external security of France. The insti- tional agents of the Revolutionary Tribunal in certain of their activi- es became in one sense but extensions of the Tribunal itself. Through as fact it obviously becomes necessary to understand the organization nd activities of the revolutionary government in both its national and cal aspects to appreciate with any fullness the nature of the Tri- nal's work and its place in the institutional scene of the period. onsidered from the broad point of view the organization of France r the enforcement of revolutionary justice seems rather more efficient nd less ruthless and oppressive than is likely to be assumed. When lowance is made for the disrupting and passionate forces of internal evolts and foreign wars; when the effect of distance and poor com- unications upon concerted action is calculated; and when the waste at accompanies quick decisions is placed in the balance, the adminis- rative organization of the Tribunal embedded within the corp of revo- tionary authorities, high and low, becomes no mean achievement.

In this achievement the major parts were taken by the Committees Public Safety and General Security, the representatives on mission, nd the committees of surveillance. The two great committees provided e possibility for quick decisions at the center of government and me degree, at least, of consistency in action. Here was a concentra- on of power and fervor to which all France could refer and from hich could be drawn the supervision, support, and encouragement so ecessary to sustain the hands of local authorities. The representatives mission reduced the diluting influence of distance by bringing the ergy and ardor of the capital into the departments and districts of rance. The committees of surveillance gave the Tribunal an exposed rve in every part of the country and supplied local centers from which e intense oversight of neighbor upon neighbor or the suspicions of tive toward stranger could be brought to bear.

When to these institutions one adds the services of the administrators the departments and districts, the national agents and commissioners, e criminal and civil tribunals, and the police the magnitude of the fort and the fine mesh of its organization becomes apparent. Equally parent is the fact that without the aid furnished by these extraneous associated bodies the Revolutionary Tribunal, to whose internal ganization and procedure we now turn our attentions, would have llowed a career already marked out by the extraordinary tribunal of ugust 17, 1792.

CHAPTER VI

PROCEDURE

Revolutionary justice as administered by the Paris Tribunal proceeded by two distinct steps. The first step—the arrest of the suspects their examination, and their dispatch to Paris—has already been described. The second step was their actual appearance before the Revolutionary Tribunal. This part of the procedure and the several changes that it underwent during the history of the Tribunal deserve a careful analysis. Such an analysis will indicate not only the function of the Tribunal in the execution of revolutionary justice but also the degree to which the Tribunal was but a reflection of the revolutionary pattern that was being elaborated in the country as a whole. It is also of interest to note that while the organization of the Tribunal went through five chronological phases,[1] the procedure went through but three. With some qualifications the first phase of the procedure lasted from the beginning of the Tribunal's operations to the law of 22 Prairial (June 10, 1794) the second phase from the law to the reorientation following the overthrow of Robespierre; and the third phase, very similar to the first in character, from that time until the abolition of the Tribunal at the end of May, 1795.

In the spring of 1793, the Conciergerie was designated as a prison reserved for the use of the Revolutionary Tribunal. Those awaiting trial were ordinarily held there. The local authorities upon sending prisoners to the Tribunal in Paris frequently designated the Conciergerie as the place to which the gendarmerie should deliver them. This prison, however, was not large enough to hold all those who were awaiting trial,[2] and prisoners of the Tribunal were frequently kept at the Petite Force,[3] Luxembourg,[4] Bicêtre,[5] Abbaye,[6] Égalité,[7] Carmes,[8] St. Lazare,[9] and Port Libre,[10] as well as in the infirmary of the Conciergerie.[11] As a rule

[1] See *supra*, pp. 16-24.

[2] France had a problem of prison congestion in many centers outside of Paris. It is Audiat's estimate that the "law of suspects"—September 17, 1793—accounted for more than 300,000 arrests (L. Audiat, *La terreur en Bourbonnais. Les victimes. I. Lyon* [Paris, 1873], p. 16). Arrests under other laws must have run the total above 400,000.

[3] *A.N.*, W11, No. 505; W27, No. 1620.

[4] *Ibid.*, W17, No. 753 *bis;* W23, No. 1231; W30, No. 1771; W58, No. 3496; W71, No. 3915.

[5] *Ibid.*, W17, No. 757.

[6] *Ibid.*, W24, No. 1399; W26, No. 1586; W34, No. 2125.

[7] *Ibid.*, W24, No. 1417; W26, No. 1608; W30, No. 1739; W36, No. 2363; W70, No. 3885.

[8] *Ibid.*, W26, No. 1549; W27, No. 1651.

[9] *Ibid.*, W37, No. 2450.

[10] *Ibid.*, W58, No. 3483.

[11] *Ibid.*, W24, No. 1302; W26, No. 1582; W34, No. 1868; W36, No. 2359; W44, No. 2948; and W42, No. 2859.

e Tribunal attempted to transfer these prisoners to the Conciergerie as ace became available and as the time for their trials approached. In number of cases, however, the office of the public prosecutor prepared ssiers on prisoners who were expected to arrive in Paris, but who rough escape, death *en route,* or a release issued by the representatives the people or the Committee of General Security, could not be found the appropriate prison when the Tribunal sent for them.[12] The Tri- nal was also informed rather frequently that certain prisoners awaiting ir trials had died in the prisons or in the infirmary of the Con- rgerie.[13]

The first appearance of the accused before the Tribunal,[14] until the anges introduced by the law of 22 Prairial, year II, was a preliminary xamination known as the *interrogatoire.* At this time he may have en in a prison in Paris for as little as one day[15] or as long as eight onths,[16] but the chances were that the preliminary hearing would be ld within the first month. Seemingly, also, the chance of an early hear- g was not greatly affected by whether the accused arrived in the isons during 1793 or 1794. During both years a wide fluctuation ntinued in the length of time required to bring individual cases to is first step. One important possibility existed, however, that might move the need for this *interrogatoire.* The Committee of General ecurity in a number of cases ordered the release from prison of the uspect before he could be called by the Tribunal.[17] This action of the Committee should be considered in any appraisal of the proportion of convictions by the Tribunal, since the effect was to remove from the urisdiction of the Tribunal those cases in which the evidence seemed nsufficient. Thus the number of trials that resulted in conviction was roportionately larger than would have been the case had not the Com- nittee spared the Tribunal by this winnowing process.

The preliminary hearing was conducted by one of the judges, the ublic prosecutor or one of his assistants, and the clerk of the Tribunal

[12] *Ibid.,* W23, No. 1219; W24, No. 1406; W24, No. 1434; W35, No. 2176; and W45, No. 3012.

[13] *Ibid.,* W23, No. 1279; W16, No. 684; W24, No. 1302; W36, No. 2359; W37, No. 2419; and W51, No. 3308 *bis.*

[14] By consulting various registers, not always complete, the Tribunal had at its isposal certain essential facts about each of the persons to appear before it and guide to the location of the relevant documents in the archives of the Tribunal. One list, maintained in alphabetical fashion, contained an assigned number which governed the location of the pertinent papers in the files. This register, showing the effects of haste in its later entries, is in three volumes and may be found n *ibid.,* W233-237. The documents submitted in the case were frequently men- ioned and at times an inventory of the essential evidence included. The local authority initiating the case is also mentioned. See especially *ibid.,* W227-230.

[15] *Ibid.,* W16, No. 684, and W36, No. 2342.

[16] *Ibid.,* W24, No. 1417.

[17] For example see *ibid.,* W8, No. 379; W12, No. 563; W27, No. 1623; W27, No. 1623 *bis;* W30, No. 1759; W45, No. 2967 *bis;* W46, No. 3097; and W50, No. 3291.

or one of his assistants.[18] The examination (*interrogatoire*) of the prisoners was short and was designed primarily to place on record the answers of the accused to three questions that required little discussion. The first question was designed to establish the identity of the accused, his place of birth, age, occupation, and residence; the second required that the accused affirm or deny the validity of the evidence that had been submitted by outside authorities in sending the defendant before the Tribunal; and the third required the accused to state whether or not he had selected a counsel to represent him in the trial before the Tribunal.[19] Frequently the record of this examination could be included in one page of an official form,[20] and it seems doubtful that many *interrogatoires* lasted over thirty minutes. If the defendant had not selected a counsel, the officers of the Tribunal appointed one for him from the official defense counsels attached to the Tribunal, and a notation of this fact was included in the record.[21] Following the questioning, the accused was returned to prison to await the pleasure of the Tribunal.

There was a chance, however, that the case might never reach the trial stage, for the Committee of General Security had and frequently exercised the power to release prisoners not only before but subsequent to the preliminary examination. These orders of *mis en liberté* by the Committee were issued with some frequency during the entire history

[18] The Tribunal maintained a register in which a record was kept of the judge or other person assigned to preside over the *interrogatoire*. This record also contained the date, the file number assigned to the case, and the name of the person to be examined. Occasionally, individual entries were completed by the notations: "non interrogé," "non trouvé à la Conciergerie," or "liberté." This register may be found in *A.N.*, W232.

[19] *Interrogatoire* of Boissonnat, June 26, 1793, *ibid.*, W6, No. 244; of Adam, February 13, 1794, W19, No. 1201; of the widow Delaigle, April 30, 1794, W32, No. 1918; and of Pichery, August 3, 1794, W51, No. 3308 *bis*.

[20] Where acts of the Tribunal were repetitive, forms were usually printed with blanks left for the inclusion of the personal and, therefore, variable portions of the record. The typical *interrogatoire* was embodied on a single sheet and revealed a somewhat perfunctory performance. There is almost no indication that this session was designed in any way to probe into the essential question of guilt or innocence.

[21] In the initial procedure of the Tribunal, the prisoner could have the limited use of *défenseurs officieux*. The order of *avocats* had been suppressed and technically any citizen could act as the representative of another before the Tribunal. Actually the bulk of the work fell into the hands of a small group of men of legal experience who did what they could, under severe limitations, to aid the culprit in his defense. Two of the better known were Chaveau-Lagarde and Tronçon-Ducoudray, both former *avocats au parlement*. See Roblot, *La justice criminelle . . .*, p. 168, and P. Montarlot, *Les accusés de Saône-et-Loire aux Tribunaux révolutionnaire* (Autun, 1901), pp. 16-19. From the beginning of April 1794, the *défenseurs officieux* were required to have a certificate of civism (*A.N.*, W502, 28 Pluviose, II). An interesting insight into the conception of the Commune of Paris of the characters and functions of these individuals is provided by a report of the Commune's committee of civism (*Moniteur*, April 17, 1794, XX, 231).

of the Tribunal, but leniency increased following the events of 9 Thermidor.[22]

Following the preliminary hearing the accused was permitted to consult with his counsel concerning the defense that would be offered at the trial, while the public prosecutor proceeded to draw the document of formal charges known as the *acte d'accusation*. The charges set forth in the *acte* were general in character but were based upon the documentary evidence sent in by the arresting authorities and local agents and the responses made by the accused at his preliminary hearing. It is evident that considerable care was exercised in the preparation of the formal charges—with some exceptions that will be spoken of later—and that the *acte* constituted the central point about which the trial revolved.

The public prosecutor in preparing this step in the procedure had at his disposal all of the *"pièces,"* and *"notes et renseignements"* both for and against the prisoner that had accumulated in his *dossier* through the efforts of the clerks in the offices of the Tribunal. Until the pace of the Tribunal became too rapid to permit an adequate study of these documents, the public prosecutor in the preparation of the cases seemed to give careful consideration to all available evidence. Anyone familiar with the masses of evidence that passed into the hands of the Tribunal would be constrained to admit that no institution of the revolution was confronted with a more tedious task; nor did any institution, in all probability, work harder than did the administrative personnel of the Tribunal in the performance of its duty.

Inasmuch as the *acte d'accusation* depended so largely upon the evidence submitted with the case, some conception of the nature and variety of this evidence must be obtained before the preparation or character of the *acte* can be adequately understood. It must be also understood that since this evidence was almost in its entirety submitted to the Tribunal by revolutionary institutions associated with it in its operation, there was a natural tendency on the part of the Tribunal to give full credence to this evidence.

The complaint constituted one of the most important documents *"à charge"* (for the prosecution) in the *dossier* of the accused. Most of the complaints were specific in the charges that were brought, and represented, as a rule, the evidence of an eye-witness. For instance the complaint made to the revolutionary committee of the section of the Faubourg du Nord against a watchmaker in Paris charged him with statements to the effect that the municipality of Paris was composed of scoundrels, and that Marat and Robespierre were hangmen. Even when warned that his words might be fatal to him, the defendant per-

[22] *A.N.*, W8, No. 390; W18, No. 757; W19, No. 1013; W24, No. 1417; W32, No. 1923; W41, No. 2773; W44, No. 2911; W50, No. 3299; and W57, No. 3474.

sisted in announcing that nothing could prevent the expression of his opinion.[23] On November 1, 1793, Fouquier-Tinville received a complaint from an employee of the committee of surveillance of the department of Paris against a servant of the former minister, Roland. That servant had been so unwise as to say in the presence of two witnesses that it was a source of great happiness that Marat had been assassinated and to intimate that a similar fate might well be extended to other members of the Mountain.[24] More elaborate complaints were lodged against Nicolas Deville, one of the former *fermiers-généraux,* who was accused of having relations with an agent of the Count of Artois, of throwing suspicion upon the intelligence of the judges elected by the people, of having hidden his brother, a deserter from the National Guard, and finally of attempting, in concert with the other *fermiers-généraux,* to conceal his thefts from the people by falsifying the accounts.[25] Fouquier-Tinville either decided that the multiplicity of charges was unnecessary or he wished to reduce the charge against the *fermiers-généraux* to the single one of financial fraud, for in the preliminary hearing the questioning of Deville was confined to his alleged financial peculations.[26] A complaint that revealed the foolhardy conduct possible to some persons was that lodged with the Committee of General Security by three witnesses of the amazing conduct of Aimée-Cecile Rénault, who was denounced for presenting herself one evening at the home of Duplay and demanding to see Robespierre. Upon being questioned she contended that all public figures should appear for the people, as the king always had done. Upon further questioning she stated that she would be willing to give her life to have a king again.[27] The possibility of some religious aberration or of an assassination plot suggested itself, and in the subsequent examination before the Committee of General Security[28] and the Revolutionary Tribunal[29] attempts were made to link this young daughter of a merchant with Catherine Théot, the alleged "mother of God," but more persistently with Henri Admiral, who had so excited public opinion by his attempt on the life

[23] Complaint against André Deschamps, September 7, 1793, *ibid.*, W293, No. 296. In the preliminary hearing of October 8, Deschamps modified his position, but the Tribunal was not influenced and sentence of death was pronounced on November 1, 1793.

[24] Complaint against Louis Le Cocq, *ibid.,* W381, No. 878. Le Cocq in his preliminary hearing, November 27, 1793, denied making the statements attributed to him, but was sentenced to death on June 7, 1794.

[25] Tuetey, *Répertoire général des sources manuscrites de l'histoire de Paris pendant la Révolution française,* XI (April 2, 1794), No. 1478.

[26] May 7, 1794, *A.N.,* W362, No. 785.

[27] May 23, 1794, *ibid.,* W389, No. 904.

[28] May 23, 1794; Tuetey, *op. cit.,* XI, No. 2302.

[29] Mlle Rénault submitted to several examinations before the Tribunal in its effort to uncover what it suspected would be a plot against Robespierre. The examinations took place on May 24, 1794, May 25 (at 10:00 A.M. and again at 7:30 P.M.), May 28, and June 16, 1794 (*A.N.,* W389, No. 904).

of Collot d'Herbois and his suspected plot against the life of Robespierre. There can be no serious doubt that with very few exceptions the complaints were definite and came from sources that had at least average credibility. If the charges do not seem serious enough to warrant the sentence of death, it must be remembered that the public law required it, and the Tribunal's function was to judge violations of the law without question of its wisdom or ethical basis.

At a time of social tension complaints were apt to be plentiful. The only possible manner in which the truth of a complaint could be established was through testimony or other evidence of a corroborative nature. At times the Tribunal—in view of its function as an instrument of revolutionary justice—went beyond what might have been expected in the search for evidence. Fouquier-Tinville's constant demand for the original documents and for all the *"pièces,"* and *"notes et renseignements"* has already been noted. He estimated at his own trial that the work of the Tribunal had demanded of him a heavy correspondence—some eighty letters a day.[30] In answer to these demands upon the outside authorities, streams of documentary evidence and records of testimony flowed into the offices of the Tribunal. It may be taken as an indication of the importance of the preparatory phase of the trials that the public prosecutor, following the division of the Tribunal into four sections, informed the National Convention that he intended to use only two sections in the conduct of the trials, the other two to be active in the preparation of cases for formal presentation to judges and jurors.[31]

During the first part of the Tribunal's history witnesses had frequently come to Paris to give their testimony for or against the accused. This practice became less frequent as the question of distance and the number of witnesses became more important. The Tribunal relied increasingly upon the testimony secured by local authorities and brought with the accused by the gendarmerie or else sent to the public prosecutor by post under the franking privilege given to his official mail.[32] The practice of direct testimony persisted, however, when distance was not an important factor, and the judges of the Tribunal heard the testimony of several thousand witnesses, most of whom lived in or near Paris. Much of this testimony was given about the time of the preliminary hearing (*interrogatoire*). Many of the witnesses, when their testimony seemed particularly pertinent, were called back to testify anew before the assembled Tribunal after the official trial got under way. In the case of the "assassins" of Léonard Bourdon, for instance, the

[30] Testimony of Fouquier-Tinville in his own trial, P. J. B. Buchez and P. C. Roux, *Histoire parlementaire de la Révolution française*, XXXIV, 310. The receipt of these documents from the outside was acknowledged on printed forms by the *parquet* of the Tribunal.

[31] See *supra*, p. 119.

[32] *A.P.*, April 30, 1793, LXIII, 617.

Tribunal heard 140 witnesses against them and 100 for them.[33]

Among the many depositions of witnesses sent in to the Tribunal a few may be cited as typical of the process. The local authorities at Sarrebourg in May, 1793, sent to the Tribunal a large number of documents concerning a charge of emigration, including the declaration of witnesses in support of the alleged fact.[34] Among the most interesting items included in this particular *dossier* was the matter of fees owed to the *huissier* for summoning the witnesses to appear before the officers of the *police de sûreté*.[35] In the autumn of 1793 the justice of the peace of Tonnerre sent numerous declarations of witnesses—eighty-four had been summoned to testify—to Fouquier-Tinville. The number of witnesses was unusually large since the charges involved a public disturbance between the republican society of Tonnerre and some volunteers.[36] Near the end of the year Fouquier-Tinville received the testimony in a case concerning some counter-revolutionary expressions made by the mayor of a small commune in the district of Carcassonne.[37] If instances of this nature be multiplied by the appropriate number of cases, it becomes obvious how dependent the Tribunal was upon the local authorities in most of the trials arising from crimes committed at some distance from Paris.

Although the general rule was that witnesses did not come from any distance to give testimony before the opening of the formal trial, a great number of local witnesses were examined by the Tribunal itself. The intention in such instances was to complete the evidence substantiating the charges made in the complaint and perhaps to increase the possibilities of discovering accomplices before they had time to attempt an escape. The preliminaries of the trial of the Hébertists presents an example of such early taking of testimony.[38] The Tribunal heard several hundred witnesses on that occasion. The testimony was given before a judge of the Tribunal, and the record of the evidence was signed by both the judge and the witness. In this particular instance the examination of the witnesses proceeded under several definite heads of inquiry that had been set up by Fouquier-Tinville in such a fashion that very little waste motion or confusion resulted. In a similar manner many witnesses were heard by the Tribunal and by the revolutionary committees before the beginning of the trial of Henri Admiral, suspected of a plot against Robespierre.[39]

[33] L. Domenget, *Fouquier-Tinville et le tribunal révolutionnaire* (Paris, 1878), p. 30.

[34] Inventory of evidence against Michaud, May 31, 1793, *A.N.*, W6, No. 246.

[35] Statement of expenses . . . . , June 4, 1793, *ibid.*, W6, No. 246.

[36] *Liste des témoins* . . . . , n.d., justice of the peace to Fouquier-Tinville, November 13, 16, 17, and 19, 1793, *ibid.*, W12, No. 761.

[37] Receipt to the Minister of Justice, December 26, 1793; *ibid.*, W19, No. 984. The testimony had been given on July 31, 1793, but did not come into possession of the Tribunal until late December.

[38] *Ibid.*, W76, 77, and 78.

[39] *Ibid.*, W389, No. 904.

In addition to the oral testimony of witnesses examined by the Tribunal and the written evidence submitted by local authorities, Fouquier-Tinville frequently had in his possession material evidence of a documentary nature as an aid in constructing the *acte d'accusation*. The Tribunal received a large number of cases involving such charges as emigration, correspondence with the *émigrés* and with the enemies of the country, and illegal traffic in assignats. Crimes of this nature usually involved a number of incriminating letters, forged passports, and papers evidencing transactions in assignats. These were sent to the Tribunal as exhibits in the case whenever they were discovered. Other criminal acts yielded occasional evidence of a similar nature. Many of these cases could be classified as "crimes of opinion"—including such charges as "*propos contre-révolutionnaires*" and conspiracy[40]—where documentary evidence such as pamphlets and letters was frequently discovered and sent to the Tribunal.

When evidence of this nature was placed at the disposal of the Tribunal, the oral testimony of the witnesses often became a matter of secondary importance. It was in keeping with the practice of supplying available evidence that the national commissioner of Beauvais sent to Fouquier-Tinville two samples of faulty supplies that the national agent and a local merchant had been furnishing to the military hospitals.[41] Two pro-royalist pamphlets containing a protest against the trial of Louis XVI figured as evidence in a trial of an alleged royalist group of Rouen during the summer of 1793.[42] On February 5, 1794, a national agent sent to Fouquier-Tinville over 11,000 livres in counterfeit assignats found on an agent of the *émigrés*, who had brought them into France and was attempting to distribute them.[43] A few months later at Boulogne-sur-Mer three counterfeit assignats had been traced to a soldier and sent as evidence to the Tribunal.[44]

One important part of the evidence supplied to the Tribunal was intended to inform the Tribunal not of the circumstances of the crime but of the position which the suspected criminal occupied in his community. The frequent appearance of such personal information in the trial of the cases before the Tribunal was on order of the Committee of General Security. The reports were submitted on printed forms known

[40] According to the classification made by Greer (*The Incidence of the Terror during the French Revolution: a Statistical Study*, Table IV, p. 152) almost two thirds of all the death sentences by the Tribunal were pronounced for the broad charges of counter-revolutionary opinions and conspiracy. The next largest group of slightly over one-tenth was for intelligence with the enemy. The convictions for emigration totalled only 2½ per cent of the death sentences.

[41] April 16, 1794, *A.N.*, W30, No. 1723.

[42] *Ibid.*, W9, No. 402. The two printed pamphlets, one of eight pages and the other of sixteen, presented impassioned arguments for the legal impossibility and the political inadvisability of trying the King.

[43] *Ibid.*, W75, No. 4025.

[44] *Ibid.*, W35, No. 2212.

as *tableaux* supplied to the local authorities by the Committee.[45] In the appropriate columns the revolutionary authorities supplied the name, age, and residence of the suspect, with similar information—very important in cases involving emigration—concerning any children of the suspect. If the suspicions of the authorities had progressed to the point of arrest, the date of the arrest and the place of detention were supplied along with information about the charges in the case and the responsibility for issuing the warrant of arrest. The *tableaux* also gave the economic status of the accused both before and during the Revolution and the sources from which his income was derived. Perhaps as important as any information were the conclusions of the authorities preparing the report upon the character and opinions of the suspect as well as the sort of persons with whom he had habitual relations; especially damning, of course, was the existence of any liaisons with groups of individuals generally considered as enemies of the revolution. Though *tableaux* were not provided for all of the cases, no other document in the archives of the Tribunal so completely constitutes a portrait of the suspect from a revolutionary point of view.[46]

While most of the documents supplied to the Tribunal were evidence for the prosecution, witnesses and evidence for the defense were by no means precluded.[47] Such documents *"à décharge"* or *"pièces justificatives"*[48] took almost as many forms as those *"à charge,"* but there was a pronounced tendency for them to appear in the form of *mémoires*[49] drawn by the defendant and addressed to the public prosecutor or the president of the Tribunal. One suspect had so well prepared his case that an inventory of the documents presented on his behalf ran to thirty-two different entries.[50] An ingenious device was used by a prisoner from Lyon, who prepared a defense based upon the

[45] This was briefly mentioned in the treatment of the revolutionary committees. See *supra,* p. 92.

[46] The *tableaux* followed a strict pattern. Typical examples may be found in that made by the revolutionary committee of Dun-sur-Loire, July 27, 1794, *A.N.,* W51, No. 3308 *bis;* that by a committee of surveillance of the district of Versan, n.d., *ibid.,* W45, No. 2959.

[47] It was Fouquier-Tinville's contention that the public prosecutor was not required by law to call witnesses for the defense. According to his testimony at a later date it was his opinion that in the trial of the Dantonists witnesses for the defense would be called by Danton and his associates. The situation here had become somewhat involved; the Convention had brought the accusation against the Dantonists, and its members, therefore, already parties to the accusation, were not free to testify for him. Throughout this controversy the public prosecutor contended that he obeyed the commands of the Committee of Public Safety and was not answerable for a breach of law. H. Fleischmann, *Réquisitoires de Fouquier-Tinville* (Paris, 1911), p. 266.

[48] N.d., *A.N.,* W41, No. 2741; July 22, 1794, W47, No. 3114; January 24, 1795, W57, No. 3455.

[49] June 9, 1793, *ibid.,* W5, No. 225; December 26, 1793, W18, No. 757; January 17, 1794, W20, No. 1069; July 17, 1794, W32, No. 1957; October 22, 1794, W47, No. 3112.

[50] Inventory of *pièces justificatives, ibid.,* W37, No. 2398.

use of two columns: on the left hand side he entered each of three charges against himself and on the right hand, at greater length, he entered his refutation.[51] The efforts of the popular societies to rescue patriots who had been falsely accused also constituted a most effective evidence for the defense.[52] In one case at least a *tableau* was used as an instrument for the acquittal of a former priest.[53] The voice of the defense, while not a loud one, was not stifled during the first year of the Tribunal's operations.

In the transmission and handling of such a large number of documents confusion and loss were constant threats. To keep these dangers at a minimum the local authorities usually sent with the documents an inventory,[54] which would enable the office of the Tribunal to discover the absence of any of the individual pieces, and required of the Tribunal a receipt for delivery. Once in the office of the Tribunal the various clerks were responsible for the proper handling of the documents and their allocation to the proper *dossiers.*

This office of the Tribunal, known as the *parquet,* was divided into seven sections and each section was assigned its particular task.[55] The first section received all correspondence, acknowledged its receipt, and sent it immediately to those charged with filing it or placing it in its designated *dossier.* This section was required to send all orders concerning witnesses immediately to the public prosecutor and issue receipts for letters received and sent. A second section was to receive all the documentary evidence and issue a receipt to the authorities who sent it and the gendarme who delivered it. This section prepared warrants for arrest and issued orders to hold the accused in prisons of other tribunals or to send him to Paris by a route which it indicated. It also prepared the order for the release of prisoners and for the lifting of the seals that had been placed upon seized papers or personal effects. The counsel for the defense received permission from this office to visit his client, and medical officers were required by this section to make

[51] Observations on various accusations . . . . , n.d., *ibid.,* W6, No. 244.

[52] See *supra,* pp. 101-102.

[53] *Tableau* . . . . , n.d., *ibid.,* W39, No. 2619.

[54] The inventories were outlines of the way in which the local authorities prepared the cases. For instance, in a case involving the charge of emigration sent by the local authorities of Sarrebourg the inventory discloses the inclusion of seventeen documents as evidence to support the charge. Among these documents were such items as the following: a letter by the accused written while he was out of France, a diary, a passport delivered at Prague, another at Schaffhausen, and a third at Basle, a bill for lodging, the minutes of his arrest and his examination by the justice of the peace, the summonses of witnesses and their testimony, the issuance of a warrant for his arrest, his examination before the director of the grand jury, and its decision that he be sent to the Revolutionary Tribunal. Inventory of evidence against Louis Michaut, *ca.* May 17, 1793, *ibid.,* W6, No. 246.

[55] *Ibid.,* W95, No. 6. The tableau of duties assigned to the members of the prosecutor's office, from which the information in this paragraph has been taken, is unsigned and undated, but the reference to the counsel for defense seems to place it before the law of *22* Prairial, year II.

reports on certain prisoners. The formation of the *dossiers* was entrusted to the third section, which was also required to see that all materials sent by the various committees to aid in this work were returned to them. From the warden of the prison a daily account was sent for the information of this section concerning all prisoners released or added. The summoning of witnesses for the various cases and the responsibilty for seeing that they appeared at the proper time was attributed to the fourth section. An exact register of approaching trials and the witnesses who were to appear in each was to be maintained and an examination made of the prison reports to prevent the summoning of witnesses against defendants who had been fortunate enough to be released by order of the Committee of Public Safety or the Committee of General Security. The fifth section was charged with the examination of the *dossier* of each case and the separation of the evidence for conviction from that for acquittal. A precise analysis was to be made of the evidence and the plan of the indictment was to be formed. The sixth and seventh sections were to be available for copying and sending to national and local authorities extracts of judgments and also for any other clerical work that might be needed.[56] Despite this rather elaborate organization it was inevitable that the increased activities of the Tribunal should result in many lapses and errors in caring for the great mass of documents that the Tribunal both received and created.

On the whole, however, there would seem to be no doubt that the drawing of the indictment by Fouquier-Tinville or by one of his assistants rested upon a firm foundation of evidence provided by complaints, examination, depositions, documentary evidence, *tableaux,* and any other evidence for the defense or for the prosecution that might be available.[57] The *acte d'accusation* represented the central legal core

[56] The work of the Tribunal was further simplified by the elaboration of a large number of forms. These, partially printed, when filled in constituted a record of or an authorization for many of the movements within the Tribunal. Among these—and the title is suggestive of its use and place in the work of the Tribunal—were: "Signification au concierge du jugement qui condamne à mort"; "Procès verbal d'exécution de mort"; "Procès-verbal de perquisition du témoin"; "Procès-verbal d'exécution de mandat d'arrêt et d'arrestation"; "Notification de mandat d'arrêt"; "Assignation des témoins aux débats"; "Convocation du juré de jugement"; "Procès-verbal de mise en liberté"; "Notification à ——— accusé de la liste des témoins"; and "Signification de jugement à la municipalité de Paris." Examples of these forms may be found in *ibid.,* W524, 525, 526, 527 and 529. Further forms may also be found bearing the titles: "Réquisition au commandant de la gendarmerie près les tribunaux"; "Déclarations de témoin"; and "Reçu des pièces données par l'accusateur public du tribunal révolutionnaire." See *ibid.,* W541.

[57] Any prolonged reading of the *actes d'accusation* soon reveals the inevitable ease with which the prosecutor and his assistants slipped into a pattern of phrases. The accusations lose variety and one encounters over and over the phrases: "tenus des propos réputés séditeux, correspondu avec des émigrés, reçu des prêtres réfractaires causé avec d'autres détenus, conspiré contre la liberté et la sûreté du peuple français." Montarlot, *op. cit.,* p. 3. Some idea, however, of the documentary sub-structure that at times supported the *acte* may be had by consulting

about which the trial revolved. If it was based upon an adequate array of testimony, the margin of possible injustice was scarcely greater than that to which the regular tribunals were liable. During the period when the Revolutionary Tribunal took cognizance of all the evidence available to the office of the public prosecutor, its distinguishing mark was not any revolutionary quality in its procedure but the fact that it applied penalties of a final nature upon the basis of revolutionary law. For with the exception of the period from June 10 to August 1, 1794, the public prosecutor, with infrequent exceptions, exercised a commendable restraint in the preparation of the formal charges and the judges and jurors exhibited a sense of responsibility in hearing and evaluating the testimony.

The *acte d'accusation* established the general content of the trial by setting forth the formal charges against the defendant or defendants. For example, the charges against Adam Lux on November 1, 1793, covered a multitude of alleged acts and sentiments, any one of which would have been sufficient for the sentence of death. He was accused of being the author of a brochure in praise of Charlotte Corday, of maliciously provoking civil war with his seditious writings, of suggesting that a dictator was necessary and that Roland alone was capable of this position, and of attempting to weaken the authority of the existing government.[58] The *acte* against Charlotte Corday, on the other hand, was much simpler, since she was charged only with a premeditated attack upon the representatives of the nation in the person of Marat.[59] One of the most complicated of the *actes* was drawn against the *fermiers généraux;* thirty defendants were charged with the commission of counter-revolutionary crimes, which in turn were divided into eight separate but related categories.[60] When the trial had pronounced political significance, in accordance with the law requiring that the Convention accuse its own members, Fouquier-Tinville, who on the whole was very assiduous in the personal preparation of the *actes,* accepted for the Tribunal a formulation of the charges perfected in the committees of government. The charges against the Girondins were those formulated by a joint committee of the Committees of General Security and of Legislation,[61] while in the trial of Danton the public prosecutor adopted the charges read to the Convention by Saint-Just.[62]

A. J. T. Bonnemain, *Les chemises rouges ou mémoires pour servir à l'histoire du règne des anarchistes* (2 vols.: Paris, an VII). The introduction contains an account of the Bourdon case; pages 1 to 134 contains the trial; and 134 to 223 Vol. I and 1 to 249 Vol. II sets forth reports, letters, declarations, denunciations, official records, preliminary hearings and the accusations in the matter.

[58] W293, No. 213.

[59] July 16, 1793, W277, No. 82.

[60] May 5, 1794, W362, No. 785.

[61] *A.P.*, July 26, 1793, LXIX, 542.

[62] *A.N.*, W342, No. 648.

Although several months frequently elapsed between the arrest of the defendant and the preparation of the *acte d'accusation,* once that important document was ready, the trial of the accused before the Revolutionary Tribunal followed quickly.

In preparation for the public trial the prosecutor delivered to the gendarmerie attached to the service of the Tribunal an order for the delivery of the suspect. Upon the authority of this order the warden of the prison in which the suspect was being held surrendered him to the gendarmerie for safe conduct to the Revolutionary Tribunal.[63] Upon the appearance of the defendant, the trial was formally opened by the establishment of his identity. He was requested to give his name, age, residence, and occupation or status. With the satisfaction of the Tribunal upon these points the *greffier* proceeded to the reading of the *acte d'accusation,* after which the public prosecutor might, if he chose, call the attention of the judges and the jurors to certain aspects of the case that seemed worthy of special consideration. At the completion of these initial formalities the Tribunal turned its attention to the examination of the accused, the witnesses, and the documentary evidence.[64]

It was this portion of the trial which consumed most of the time. When it looked as if the trial of Brissot and his associates (October 24-31, 1793) might be prolonged, the Convention adopted the rule that the jurors might bring the trial to a close by declaring at any time after the third day of the formal trial that they were sufficiently enlightened and desired to proceed immediately to their verdict.[65] But even three days could be considered too great a concession in a revolution, when time was more valuable than blood or treasure; and so the law of 22 Prairial made it possible to eliminate the oral testimony in the trial by making the hearing of witnesses unnecessary when documentary or intellectual (*morales*) proofs of the guilt existed independently of testimonial evidence.[66] Even here, however, somewhat more

[63] Order to warden of the prison of Port Libre, October 24, 1793, *ibid.,* W34, No. 2138; order to the warden of the Conciergerie, April 11, 1794, W24, No. 1425; August 14, 1794, W44, No. 2942; and September 4, 1794, W34, No. 2106; after 9 Thermidor the order was usually signed by one of the judges.

[64] The Tribunal kept registers of its audiences. The first, for instance, bears the notation: "Registre des audiences du tribunal criminel extraordinaire. 1er registre . . . ledit registre contenant deux cent quarante-huit feuillets cotés et paraphés et signés par premier et dernier par nous J. B. M. Montané, président." *Ibid.,* W531. Two additional registers are to be found in *ibid.,* and in *ibid.,* W532. The third register contains several dates without comment and a number of blank pages. The haste of the Tribunal tends to show itself in all of the records.

[65] *Moniteur,* October 30, 1793, XVIII, pp. 159-60. It is interesting to note that the three day law was originally introduced in terms that would have enabled the jurors to terminate the trial at any time, and that it was on Robespierre's insistence that the jury was prevented from doing this until after the third day of the trial.

[66] Law of June 10, 1794, article xiii, *Journal des débats et des décrets,* No. 629, p. 352.

attention was given to the documentary evidence than has been generally supposed.[67] During the first year, however, the Tribunal was rather patient with the oral testimony, although French courts before the revolution had relied almost entirely upon written evidence, and continued to summon witnesses for both the prosecution and the defense.[68]

The witnesses were summoned in accordance with the list (*cédule*) drawn up by the *parquet*.[69] The *huissiers* of the Tribunal and the gendarmerie were entrusted with the duty of informing the prospective witness when he was to appear. If the witness lived outside the limits of Paris, the notification was sent to one of the local authorities. Witnesses living in Paris frequently appeared before the Tribunal, and from time to time large numbers came even from a distance when the nature of the case demanded their presence. It will be recalled that the prospective appearance of two hundred witnesses to testify in a case involving an alleged seditions movement in Rouen prompted Fouquier-Tinville to request the permission of the Convention to augment the jury of the Tribunal from the list of jurors maintained by the criminal court of the department of Paris.[70]

During the trial the witnesses and the accused were subject to questions directed at them by any of the judges, the public prosecutor, or any of the jurors. As a rule the presiding judge took the lead in bringing out the testimony, but the examination was apt to include the public prosecutor and frequently exended to one or several of the

[67] It will be remembered that during the late spring and summer of 1794, Fouquier-Tinville was required to make regular reports to the two great committees on the activities, both past and future, of the Tribunal (*supra* p. 62). In these reports the public prosecutor pointed out that in designating the activity of the Tribunal for the coming *décade* substitutions and changes must be condoned. These would be occasioned by the failure of expected prisoners to arrive in Paris, by the fact that others could not be found in the prisons, and by the further limitation that while the prisoner was present the evidence against him had not been received. Evidence appeared then still to play a part ("État des affaires indiquées au Tribunal Révolutionnaire pour la troisième décade de Prairial," *A.N.*, F7 4438, plaque 2).

[68] Roblot sees two principles of legal procedure at work in France. The first—from the Germanic invasions to the fifteenth century—was characterized by public accusation, oral proofs, public hearing, and the rights of the defense. The other—for the three centuries preceding the Revolution—relied upon indictment by public officials, written and secret means in preparing the case, inquest, legal proofs, and the suppression of the rights of both plaintiff and defendant (Roblot, *op. cit.*, p. 61; also see Seligman, *La justice en France . . .*, I, 67 ff.). There is much to be said for the theory that in 1793 and 1794 the Revolutionary Tribunal drew its inspiration largely from the procedure of the sixteenth, seventeenth, and eighteenth century—in other words remained in close touch with the procedure of the period immediately before the Revolution—while the ordinary criminal tribunals under the reforms of 1791 had gone back to the procedure characteristic of the period before the fifteenth century. This represents a rather unexpected juxtaposition.

[69] A good example of such a list will be found in "État des affaires pour lesquelles les assignations sont données aux témoins," *A.N.*, W95, No. 1.

[70] *A.P.*, LXXII, 385-86.

jurors. The *greffier* was responsible for recording the questions and answers. The counsel for the defense, although present, took no part in the examination of the accused or of the witnesses, but reserved his services for a short presentation of the case for the defense at the conclusion of the presentation of testimony. As time went on, the activities of this counsel became more and more perfunctory. The law of 22 Prairial abolished the office of counsel for the defense, but even before this the counsels had given up any idea of vigorous advocacy.[71]

At the conclusion of the oral testimony and following the plea for the defense, the president of the Tribunal phrased into a series of questions the charges upon which the jury was to give a verdict. The jury then retired into a room reserved for it. There it was supplied with the records of the Tribunal containing the evidence in the case, and came to a decision concerning its reply to each of the questions formulated by the president. Upon his re-entry into the audience chamber each juror responded aloud to each question. After February 9, 1794, the juror was to avoid any speech or declaration in giving his verdict; the law required only the statement of the individual decision of each.[72]

If the jury returned a verdict of guilty, the accused was permitted to make any observations he desired upon his personal position and the public prosecutor proceeded to an announcement of the law or laws providing the penalty or penalties to which the accused was now liable. The judgment was pronounced by the president of the court, who had received individual opinions from each of his colleagues. This judgment, contrary to popular belief, could take several forms.[73] In addition to acquittal and death, the Tribunal could pronounce a sentence of deportation or of imprisonment in irons; it might also refer the case to another court or order the continued detention of the defendant in the public interest. Whatever the judgment, the Tribunal issued the proper authorization for its execution.[74]

[71] Testimony of Sezille, *défenseur officieux,* in the trial of Fouquier-Tinville, Buchez et Roux, *op. cit.,* XXV, 73-75.

[72] Aulard, *Recueil . . . salut public,* XI, 3. According to Domenget the requirement of the oral vote by each juror was the source of much mischief. Individual jurors, confronted with an audience, were reluctant to be considered soft in the matter of revolutionary rectitude and tended to vote for reputation with the crowd. Domenget, *Fouquier-Tinville et le tribunal révolutionnaire,* pp. 7-8.

[73] The law of 22 Prairial (Article VII) stated that the penalty for all of the crimes falling within the jurisdiction of the Tribunal was death. Fouquier-Tinville, during his trial in part attempted to justify the inclusion of a number of unrelated prisoners in the same *acte d'accusation* on the ground that guilt called for a single penalty. Even so there is room for the conviction that during this period the Tribunal continued to give a few sentences short of the supreme one. See *infra,* Table II for July.

[74] The Tribunal was careful of its public relations. In addition to publishing the *Bulletin,* the Tribunal also published placards dealing with individual cases. These were printed for the government bureaux—for instance 50 copies of all judgments were sent to the bureau of the Minister of Justice—and for distribution

This procedure, when the function of the Tribunal is fully understood, had in it much that was of comfort to the defendant. It seems altogether likely that the number of erroneous convictions while the above procedure was in use was not sufficiently large to justify a valid indictment against the Tribunal when the proper allowances are made for the psychological strain under which much of the work was done.

Whatever error existed was undoubtedly increased by the introduction in June, 1793, of a practice of trying the accused in "batches." As a rule the first group trials observed the precaution of combining into "batches" only those who were under accusation of being accomplices in a common crime. The first trial of this character was that of some conspirators of Brittany who under the authority of the late King's brothers had formed a plot for the instigation of a royalist rebellion under the leadership of the former Marquis de la Rouarie.[75] On June 18, 1793, twelve participants in this conspiracy were executed by judgment of the Revolutionary Tribunal.[76] In this particular instance individual trials would not have altered the verdict, but a danger did exist should the Tribunal in the future include in the "batches" individuals who were not under a common indictment. Unfortunately for the reputation of the Tribunal, such mixing of accused was occurring by June 10, 1794, at a time when the danger of error was multiplied by a drastic change in the procedure.

The period from June to August, 1794, lasted less than two months out of a total Tribunal history of over twenty-six months, but from the standpoint of activity rather than duration, it was more important than the earlier and subsequent periods. During that period the Tribunal pronounced approximately 50 per cent of its total number of death sentences. Even before the drastic modifications in the procedure introduced on June 10, 1794, there is reason to believe that the Tribunal, under the pressure of the great number of cases awaiting trial and under the revolutionary influence of the dominant committees of government, had been slowly tending toward greater speed at the sacrifice of opportunities for the defense. But even if that were so, the sudden increase in the average number of daily executions following June 10 emphasizes the effect of the law of that date in bringing about a fundamental change in procedure.

At times 1500 copies were published (Herman to Minister of Justice, 14 Pluviose, II, *A.N.*, BB^{30}24). It is also of interest that the Tribunal issued without date but signed by Montané, which would indicate the early period of the Tribunal, 800 copies of an *avis* warning people not to give credence to reports concerning the Tribunal appearing in the press. These reports were characterized as false or grossly absurd (*ibid.*, W502). Since conviction worked forfeiture of property it was necessary that the names of those found guilty reach the proper agencies. Lists were published in several hundred copies for this purpose (the commission of the national revenues to the police, 17 Pluviose, II, *ibid.*, BB^{30}158).

[75] An interesting account of the conspiracy may be found in Buchez et Roux, *op. cit.*, XXV, 191-195.

[76] *Ibid.*, XXVIII, 232.

The law of June 10 eliminated the preliminary hearing as a part of the procedure unless there existed some special reason for believing that in a particular case it would be conducive to the discovery of the truth.[77] The virtue of the jurors in the formal trial was substituted for the counsel for the defense on the theory that the honesty and patriotism of the jurors would prevent the successful prosecution of any true patriot.[78] From the point of view of time, the great economy of the new procedure was the abolition of the necessity for the oral testimony or witnesses in cases in which the Tribunal was in possession of documentary evidence or of sufficient evidence to constitute moral certainty as to the reputation of the accused. The Tribunal might hear the oral testimony of witnesses only if this would be of value in the possible apprehension of accomplices or if some major consideration of the public interest seemed to demand it.[79] In cases in which the Tribunal decided to hear witnesses there was to be no distinction in summoning between the witnesses for the prosecution and those for defense,[80] and all testimony given would be oral except where distance made it impossible for a witness to attend in person.[81] An accused against whom no legally justified charges existed was no longer to be released by the public prosecutor alone but only by a decision of the Tribunal, subject to review by the Committees of General Security and Public Safety.

Even these changes might not have greatly damaged the commendable record that the Tribunal had established for itself during the first year of its history, for even without the preliminary hearing, the rights of the defense, and the hearing of the witnesses during the trial, the Tribunal still had at its disposal the documentary evidence reposing in the *dossier* of each of the prisoners. From the very beginning this evidence had been of the greatest importance and even now a fuller reliance upon it would not have resulted in noticeable deterioration in the quality of the justice dispensed by the Tribunal. The shortening of the pro-

[77] Law of June 10, 1794, article xii, *Moniteur* June 12, 1794, XX, 696-697. This law also redefined the enemies of the country and placed them under the jurisdiction of the Tribunal. The Tribunal secured its convictions almost invariably under the following laws: Article ii, second section of Title I of the second part of the penal code; Article iv of the first section of Title I and of the second part of the penal code (this article was against the French who carried arms against France and was frequently used by the Tribunal); Article ii of the second section of Title I of the penal code (also popular, this article dealt with conspiracies and plots); Article xlviii of the second section of Title II of the second part of the penal code; law of December 4, 1792; law of March 29, 1793; law of September 29, 1793 and articles iv, v, vi, and vii of the law of June 10, 1794 (22 Prairial). The law of Prairial largely replaced the others after its enactment and during the very active period of June and July. Conviction by the Tribunal also worked forfeiture of property under Article ii, Title II of the law of March 10, 1793. The use of the above laws was certified by an observation of the judgments and ordinances of the Tribunal to be found in *A.N.*, W536, 537, and 538.

[78] Same, Article xvi, *ibid.*

[79] Same, Article xiii, *ibid.*

[80] Same, Article xiv, *ibid.*

[81] Same, Article xv, *ibid.*

cedure, however, was more than made up by the increase in the number of defendants appearing before the Tribunal, with the result that the officers of the Tribunal had less and less time to put on a study of the accumulated evidence. The value of the documentary evidence was thus reduced by the physical impossibility that the public prosecutor should examine this evidence adequately in the preparation of the charges or that the jurors should more than casually consider it in the formulation of the verdict. Yet even with the possibilities of evil that haste introduced, there is no reason to assume that the result was a wholesale corruption of the judicial integrity of the court. Even in the trial of Fouquier-Tinville, some nine months after this period, those who testified against him out of their intimate knowledge of the Tribunal could cite, though there was obvious incentive for sensational charges, only a few instances in which there had been evident injustice.

Despite the untrustworthiness of evidence at the trial of Fouquier-Tinville, the testimony of the witnesses in this case constitutes the best single source for a reconstruction of the procedure of the Tribunal during the period from June 10 to August 1. It would appear that, with the elimination of the preliminary hearing, the defendant was customarily brought by a *huissier* from the prison to the Tribunal on the morning of his trial.[82] As a rule, the *acte d'accusation* had been drawn up the preceding day, and a copy given to the defendant that evening, or, when there had been great pressure on the morning of the trial.[83] It seems possible from the speed of the work and from the evidence of a former secretary of Fouquier-Tinville, and that of an assistant clerk of the Tribunal, that one of the abuses arose from the fact that occasionally an *acte d'accusation* was drawn up with the name blank and that the name of some person condemned to death was filled in later.[84] In a few such instances[85] individuals were executed who, if guilty at all, were not guilty of the charge upon which the judgment was based.

Upon his arrival in the *salle de l'égalité* or the *salle de la liberté* where the two sections of the Tribunal sat, the defendant identified himself by answering to his name called from a list by one of the judges. The practice of trying the prisoners in batches was not a new one but leading up to and following June 10 the habit was extended by including

[82] Testimony of Fouquier-Tinville, Buchez et Roux, *op. cit.*, XXIV, 440.

[83] Testimony of Leclerc, *huissier* of the Tribunal, *ibid.*, p. 419.

[84] Testimony of Duchâteau, former secretary of the *parquet, ibid.*, p. 446; and that of Wolf, *commis-greffier, ibid.*, p. 448.

[85] No estimate of frequency was indicated but the prevailing impression given by the testimony was that the blanks did not occur often. The infrequency of occurrence is further indicated by the fact that Advenier, another former secretary of the *parquet,* testified that he had seen no *acte* without the proper surname, although often the given names, ages, and status of the individual were lacking. *Ibid.*, XXXV, 11.

in the same batch defendants who were not linked with each other in any way. To reduce the confusion that would arise from the simultaneous trial of several persons, indicted for different crimes, a list was prepared of those who were to appear and a copy was given to each judge and to each juror.[86] In the larger batches the essence of the trial was apt to reduce itself largely to the problem of the proper identification of the defendants, for often, despite the intercession of Fouquier-Tinville, Dumas, the president of the Tribunal, would not allow the defendant to speak beyond answering to his name.[87]

At the completion of the identification, the reading of the *acte d'accusation,* and any defense which the accused might be permitted to make for himself, the president directed the questions formulated by the bench to the jurors, who then retired to their room for consultation. The serious accusation was made that in certain of the important cases the jury represented the deliberate choice of Fouquier-Tinville rather than the result of their choice by lot,[88] but it seems impossible to settle the charge. Regardless of whether they represented a selection by lot or by choice, the jurors upon their retirement for deliberation embodied the last chance of the defendant for a consideration of the evidence presented to the Tribunal in his behalf.[89] Fouquier-Tinville insisted in a *mémoire* prepared while he was awaiting trial that he had always supplied the jury during its deliberations with all of the evidence both for the prosecution and the defense, crayoned and marked, and carried to the jury room by one of the *huissiers* of the Tribunal.[90] Leclerc, a *huissier,* substantiated Fouquier's claim that the evidence was regularly available to the jury,[91] but again the speed with which the verdicts were determined precluded any recourse by the jurors to the documents in question. Upon the announcement of the verdict sentence was pronounced, and upon its certification to the *greffier,* the proper orders were given for its execution.[92]

It must be accepted as a fact that the proportion of mistakes made by the Tribunal after June 10 increased. But even with the increase it is not established that innocent persons suffered in any large numbers from the judgments of the court, though that is possible. It must also be acknowledged that the mistakes which occurred did not come so much from the new procedure as from the speed with which the Tribunal operated. For where time existed to prepare the case properly

[86] Testimony of Leclerc, *ibid.,* XXXIV, 419.

[87] *Ibid.,* p. 420. There was apparently much bitterness between Dumas and Fouquier-Tinville. The former appears a more ruthless man than the public prosecutor and must bear a large share of the opprobrium for any mistakes made by the Tribunal during this period.

[88] Testimony of Wolf, *ibid.,* p. 453. This practice was alleged to have begun even before June 10, 1794.

[89] Testimony of Ducret, public counsel, *ibid.,* p. 484.

[90] *Ibid.,* p. 256.

[91] Testimony of Leclerc, *ibid.,* p. 419.

[92] Testimony of Wolf, *ibid.,* p. 449.

from the available written evidence and to identify the accused, it seems altogether likely that the elimination of the oral procedure worked no great hardship upon the defendant and his chances for acquittal. An increase in the number of decisions given by a court per day makes an increase in the number of mistakes more likely under any system of procedure. That this was not more disastrously true in the case of the Tribunal may be attributed to the fact that in the vast majority of instances the real trial of the accused had already occurred in the locality whence he came.

One other consideration remains, however, even after the question of the procedure has been given its due weight in the activities of the court, and that is the question of the spirit which animated the officers of the Tribunal in the adjudication of the cases. In the final analysis the operation of the Tribunal was more a matter of personalities than of techniques. In this connection it is significant to note two factors in June, 1794, that combine to explain a great deal of the subsequent history of the Tribunal. One factor was the increasing professional attitude of the public prosecutor, judges, and jurors, most of whom had by then been in the service of the Tribunal for at least eight months. This professional spirit resulted in a ruthlessness which eliminated the hesitation and caution that would have characterized less experienced officers. To the professional spirit was joined a growing awareness of the social mission of the revolution and an increasing tendency to use the Tribunal as an instrument of class war. A discussion of this tendency, however, must await the concluding chapter.

Within a few days of the execution of Robespierre, who had been placed *hors de la loi* by the Convention and therefore needed merely to be identified before the Tribunal, the procedure of the Tribunal reverted, by order of the Convention, to that which had characterized it before June 10.[93] The speed of operation dropped to the rate which had prevailed in the spring of 1793 and the proportion of acquittals rose even higher. By the time that the Tribunal underwent its last reorganization and adopted a procedure fully prescribed by law (December 28, 1794),[94] the work of the Tribunal had slowed almost to a standstill. No better proof for the dissipation of the zeal that had once provided the Tribunal's energy need be advanced than the fact that the longest trial of the Tribunal's twenty-six months of history was that of Fouquier-Tinville and twenty-three of his former associates. The trial opened on March 28, 1794, and the verdict was given on May 6.[95] On May 31, 1795, on the recommendation of the Committee on Legislation and by decree of the Convention, the Revolutionary Tribunal was abolished.[96]

[93] *Supra,* pp. 117-131.
[94] Law of December 28, 1794, *J.D.D.,* No. 827, pp. 98-106.
[95] Campardon, *Histoire du tribunal révolutionnaire de Paris,* II, 427-508.
[96] *Moniteur,* June 4, 1795, p. 1034.

CHAPTER VII

A STATISTICAL CONSIDERATION AND CONCLUSION

A statistical analysis of the month by month operations of the Revolutionary Tribunal seems to be called for before concluding this study of the Tribunal's organization and procedure.[1] Such an analysis should reveal the social and economic origins of those who appeared before the Tribunal for trial as well as portray the varying tempo with which the Tribunal worked. Information of this character when correlated with the other known facts about the Tribunal, may reveal several interesting features of the Tribunal's work. That correlation is attempted in the two tables and four plates given and discussed below.

As shown in Table I the Tribunal from its first sentence of death (for Rouxel-Blanchelande on April 15, 1793) through its last (for Fouquier-Tinville and his accomplices on May 6, 1795) pronounced approximately 2,747 sentences of death.[2] Out of this number it was possible to assign all but fifty-three to one of five social and economic categories[3] (nobles, clergy, upper middle class, lower middle class, and

[1] The tables in Greer, *op. cit.*, pp. 135-166 will be found especially valuable in connection with this chapter and the tables and plates at the end. In the present instance an effort has been made to avoid duplicating the excellent work of Greer; here the principal problem was that of bringing the work of the Paris Tribunal into somewhat finer focus that was desirable in the broader scope of Greer's work. Those who take the trouble to compare figures and proportions will find discrepancies. This is not to be wondered at when due allowance is made for the complexity of the figures, the margin for individual choice, and the corresponding opportunity for diverse results. On the whole it is worthy of comment that results fall so closely together. While inclined to a somewhat different stress at points, the two studies, where they grapple with the same problems, are reasonably close in conclusions.

[2] This figure was derived from a comparison of three lists: *Liste générale et très exacte des noms, âges, qualités et demeures de tous les conspirateurs qui sont condamnés à mort par le Tribunal révolutionnaire.* . . . (Paris, 1793-94), *Liste des victimes du tribunal révolutionnaire à Paris* (Paris, 1911), and H. Wallon, *Histoire du tribunal révolutionnaire de Paris* (6 vols.; Paris, 1880-82), VI, 253-431. Since the *Liste générale* was a contemporary source it was used as the master list with the other two as supplementary information. For sentences pronounced after July, 1794, Wallon became the chief source. In all three lists the verdicts of the extraordinary tribunal of August 17, 1792, are given and must be separated from those emanating from the Revolutionary Tribunal. While absolute accuracy is perhaps impossible, the figures closely approximate those of other investigators, and in view of the large numbers involved, are believed to be as reliable and as critical as care can make them. This list exceeds that of Greer by 108 victims. The major part of this discrepancy is explained by the fact that the Tribunal gave 71 judgments of death after July 1794. The difference, therefore, is only 37—a close correspondence in view of the nature of the material handled. This small difference in turn is reduced by Greer's allowance for sentences passed but not put into execution.

[3] In classifying the condemned, the writer used, in so far as the information permitted, the elaborate schedule prepared by Greer, *op. cit.*, pp. 154-60, for his

TABLE I

DEATH SENTENCES OF THE REVOLUTIONARY TRIBUNAL WITH REFERENCE TO SOCIAL CLASSES

Month	Nobles		Clergy		Upper Middle		Lower Middle		Workers		No Classification	Total
	Number	Per Cent	Number	Per Cent	Number	Per Cent	Number	Per Cent	Number	Per Cent		
1793 April	0	0	1	14	3	43	1	14	2	28	0	7
May	1	11	0	0	8	89	0	0	0	0	0	9
June	6	43	0	0	5	36	2	14	1	7	1	15
July	4	31	0	0	3	23	5	37	1	8	0	13
August	2	40	1	20	1	20	1	20	0	0	0	5
September	2	9	1	5	4	19	11	52	3	14	0	21
October	3	6	5	10	30	62	7	15	3	6	0	48
November	5	10	2	4	24	50	7	15	10	21	6	54
December	14	19	12	16	23	31	13	17	13	17	1	76
1794 January	16	24	6	9	26	39	11	18	7	11	5	71
February	11	19	5	9	18	31	19	33	4	7	5	62
March	19	15	18	14	55	44	22	18	11	8	1	126
April	66	28	24	10	86	32	33	14	30	13	5	244
May	61	18	20	6	135	40	66	20	55	16	2	339
June	74	11	45	7	201	31	140	22	187	29	12	659
July	247	27	91	10	259	27	185	20	146	16	7	935
August	0	0	1	17	3	50	2	33	0	0	0	6
September	1	7	3	20	4	27	3	20	4	27	6	21
October	1	7	5	36	6	43	2	14	0	0	0	14
November	0	0	0	0	1	100	0	0	0	0	1	2
December	0	0	0	0	1	33	2	67	0	0	0	3
1795 February	0	0	0	0	0	0	0	0	0	0	1	1
May	0	0	0	0	7	44	8	50	1	6	0	16
Total	533	20	240	9	903	33	540	20	478	18	53	2,747

workers) and determine the contribution of each group to the executions for each month during the period of the Tribunal's operations. An analysis of this kind revealed that 62 per cent of all those receiving death sentences were members of the upper classes (nobility, clergy[4] and upper

classification of the victims of the Terror for all of France. Two important changes were made, however, in the plan of classification. The seven categories used by Greer were reduced to five by dividing the "noblesse de la robe" between the nobility and the upper middle class as the information indicated, and by placing those referred to as peasants by Greer in the lower middle class. These eliminations make an appreciable difference between Greer's totals for each category and those of the writer's, but do not materially affect the results when the seven and five categories are divided into two principle groups: the upper classes and the lower classes. It would seem that the essential division is that into upper and lower classes. In this the reader who wishes to make comparisons will have little difficulty in managing the statistical material of Greer and the present work.

[4] The clergy were included in the upper class because when information existed concerning the rank of the individual members, it tended to indicate a fairly high economic position, i.e., bishops, abbots, nuns of noble family, etc. Although it is recognized that some of the clergy executed were undoubtedly from the lower

middle class). The nobility accounted for 20 per cent of the total executions, the clergy 9 per cent, and the upper middle class, who suffered the most of any group, 33 per cent. While it would be impossible to secure any reliable figures for the proportion of the upper classes in the total population of France, it seems obvious that this particular division received the death sentence at the hands of the Tribunal at a rate many times greater than would have been the case had each social division been given death sentences in proportion to its size.

The heavy toll paid by the upper class is more vividly illustrated by a chart depicting the percentage of each class in the total number of death sentences on a month to month basis from April, 1793, through July, 1794 (see Plates I and II). Only in September, 1793, when the number of death sentences was but twenty-one did the three categories making up the upper classes contribute less than 50 per cent of the guillotine's victims. It can also be seen that in large measure this heavy incidence in the upper classes was due to the number of those in the category of the upper middle class condemned by the Tribunal. In July, 1794, however, when over a third (935) of all the sentences was pronounced, the nobility became a heavier contributor and almost matched the contribution of the upper middle class. It was this surge upward of the nobility that accounted for the sharp increase in the percentage of the upper classes condemned in the days just prior to the overthrow of Robespierre. The clergy were of secondary importance at all times in making up the totals for the larger group.

In some measure the high rate of mortality among the upper classes may be accounted for by the fact that they would be more likely to be suspected of counter-revolutionary activities by the "law of suspects," more likely to be apprehended, and, in many instances, more likely to be sent to Paris by the local authorities. This likelihood falls far short, however, of explaining the large discrepancy between the 62 per cent of death sentences given to the upper classes and the 38 per cent given to the lower classes. The discrepancy becomes even more marked if the figures of all those who appeared before the court are considered, regardless of whether or not they received the death sentence. Then it is found that representatives of the lower classes among the defendants slightly outnumbered the representatives of the upper classes. The respective figures, omitting those who could not be classified, were 2,238 members of the upper classes and 2,265 members of the lower classes. These

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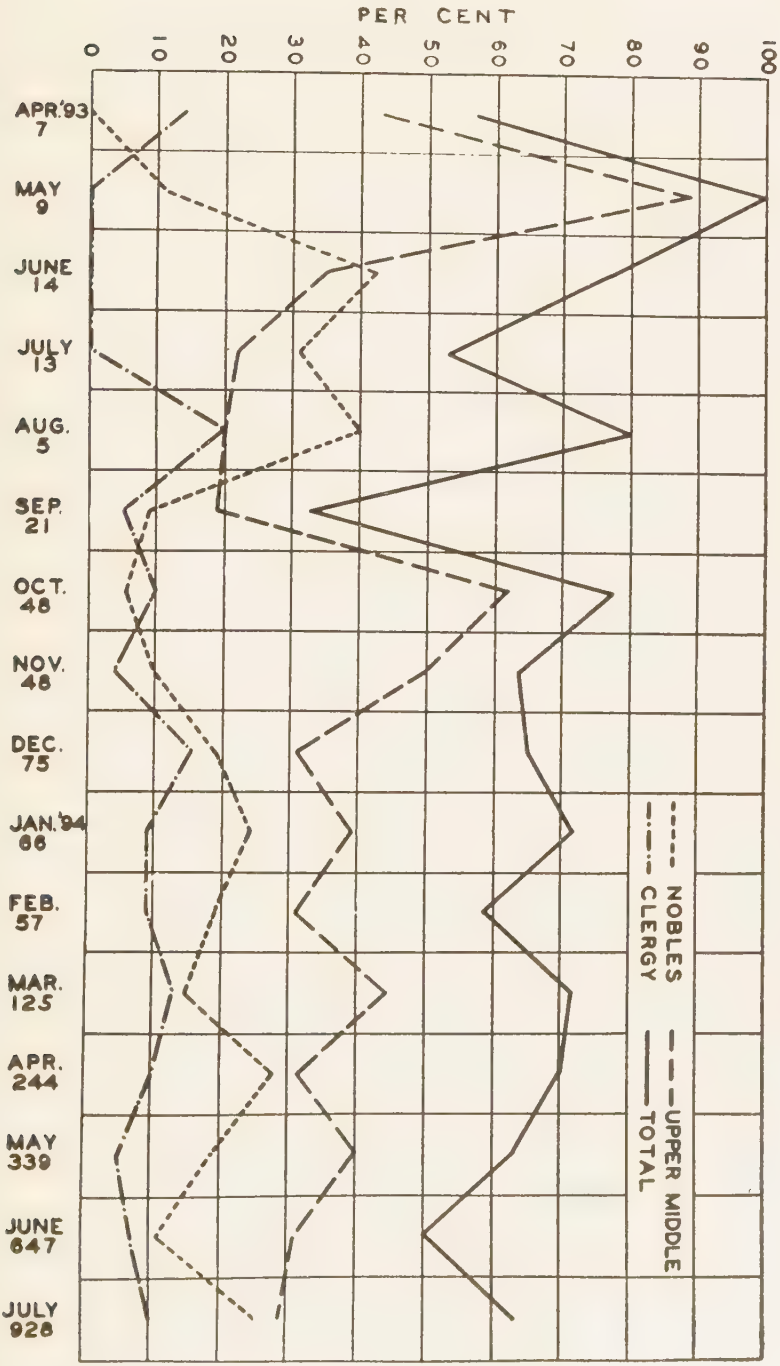
income group, it is thought that as a group they were best placed with the upper classes in view of the lack of information complete enough to warrant a division of the clergy into two parts. This percentage coincides with Greer's findings as an over-all proportion; there are discrepancies in the individual groups due to the fact that this study distributed the "noblesse de la robe" between the nobility and the upper middle class.

PLATE I

DISTRIBUTION OF DEATH SENTENCES AMONG THE UPPER CLASSES



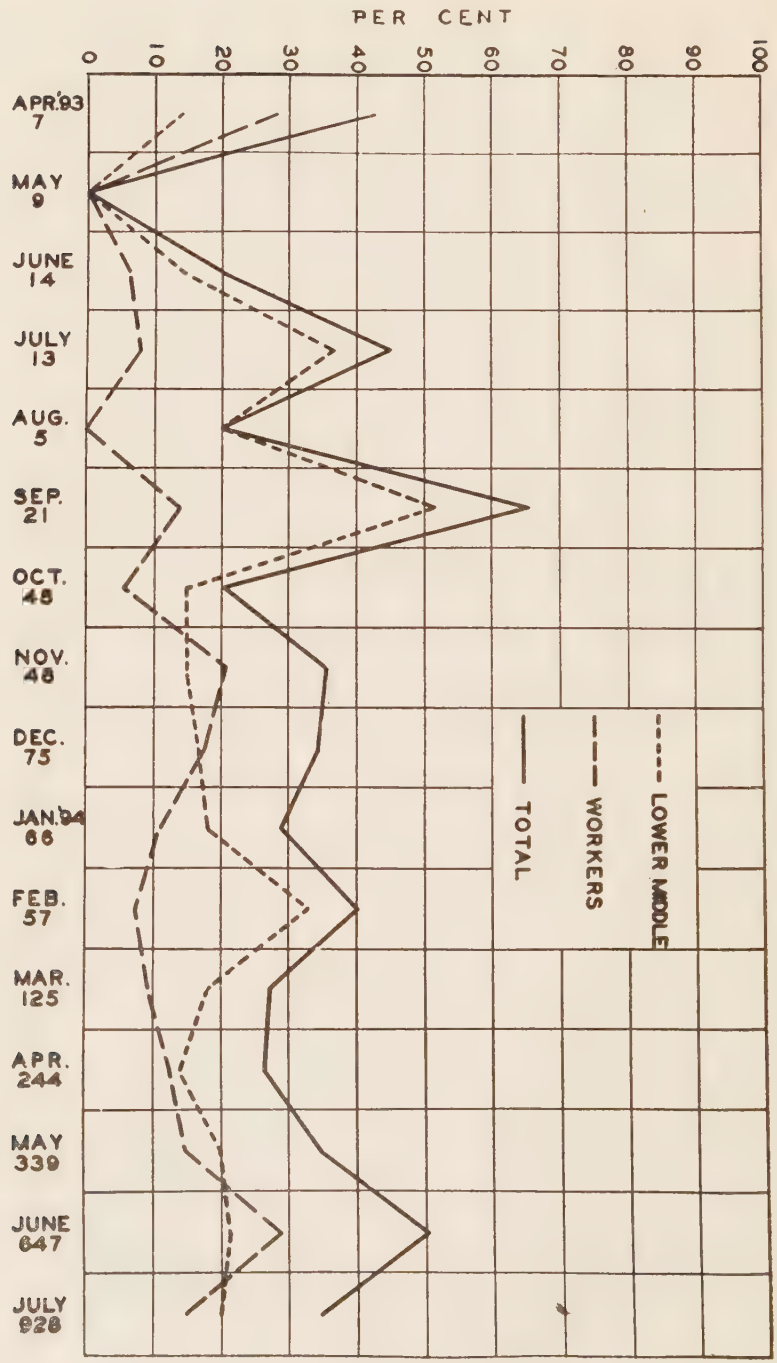


PLATE II

DISTRIBUTION OF DEATH SENTENCES AMONG THE LOWER CLASSES

figures are for the entire history of the Tribunal; the position is barely reversed if the figures are included only through July, 1794. Following the overthrow of Robespierre a rather substantial number of the lower classes were brought before the Tribunal and acquitted. Does not this in itself suggest, however, that during the Parisian Terror of June-July, 1794, the Tribunal was hastening the cases of the upper classes while delaying to hear those of the lower classes? It is also well to remember that although the two social divisions were about equally represented in appearances before the Tirbunal somewhat more than twice as many of the lower classes were released, acquitted, or received sentences other than death than was true of the upper classes (See Table II). This proportion would probably run greater were it possible to assign somewhat over 600 in the nonclassified column to their proper social category. Throughout the history of the Tribunal there is little doubt that it was better to be poor and obscure than rich and conspicuous. All in all the Tribunal exhibited a bias that shaded into set purpose, and, though falling short of complete conviction, lends some validity to the consideration of the Tribunal as in instrument of the social revolution. Perhaps the fairest way of stating the proper role of the Tribunal in its over-all history is that it participated in both a social and political mission and that its operation was most drastic upon those persons who combined both political guilt and social vulnerability.

This social set on the part of the Tribunal against the upper classes is not surprising in terms of the course of the revolutionary movement and its social content, but it is a matter for some surprise that this prejudice did not grow progressively more pronounced. A glance at Plate I will reveal that from November, 1793, through July, 1794, the proportion of death sentences for the upper classes as compared to the total number of death sentences given deviated little from its over-all average of 62 per cent. Even though this proportion remained fairly even, the social bias might have evidenced itself by an increase in the proportion of the upper classes receiving the death sentence as compared to the number of the upper classes acquitted or receiving one of the other sentences within the power of the tribunal. This in fact happened. During 1793 the chance of a member of the upper classes receiving the death sentences was roughly one in two; by June and July of the following year it had reached a point of approximately nineteen in twenty. This is shown by an examination of Plate III which represents for both upper and lower classes the percentage in each group receiving the death sentence as compared with all of that class appearing before the Tribunal. There can be no doubt of the increasing severity of the Tribunal on the upper classes during that period, but unfortunately for a statistical proof of the theory that the Tribunal was progressively harder on the upper classes than on the lower classes, it was at the same

TABLE II

Judgments Other Than the Death Sentence Given by the Tribunal

Key: N=no case; A=acquittal; E=deported; S=imprisoned; D=detained; R=referred to another tribunal

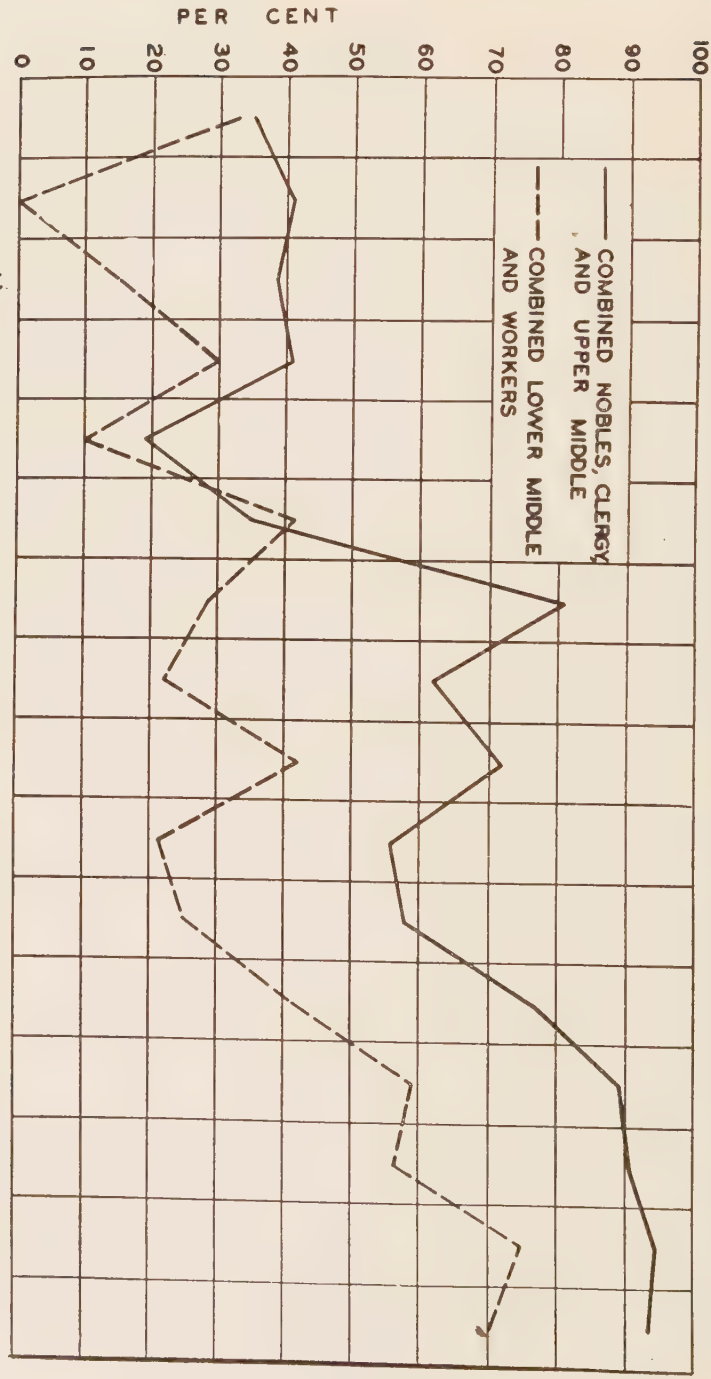
Month	Nobles						Clergy						Upper Middle						Lower Middle						Worker						No Classification						Totals						Totals for All Categories
	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	
April							3						1	3					2	1						3					2					3	8	7				3	18
May	1						2	1					1	5	2			1	5	4					3	3											12	13	2			1	28
June	1	1			2		1						9	1			3		5		1		3		6	1					2	1			2		24	4	1		10		39
July	2						1						3	2		2			2	3					7			1	1		25						40	5		3	1		49
August							7		3				4	3					2	1					5			1			11	2		1			29	6	3	2			40
September		1					1		1				5	4	1				3	2						13			1		4	6	2	1			13	26	4	1	1		45
October					1						1		1	1		2	3		3	2			6		1	8			4			3	1	7	3		5	14	1	9	18		47
November	1							1					6	10					11	14			1	3	11	12	1	2	1		14	2		1			43	39	1	4	4		91
December		2						3	1		3		5	5					7	5			1		6	16		1			1	5	1		2		19	36	2	2	5		64
1794 January		1						4	2				8	20		1	2		12	15			1	3	8	24			4		5	9		1	7	1	33	73	2	3	16	1	128
February		1						3	8			1	3	7			2		5	7	1	2	2		23	22			3		8	3			1		39	43	9	2	8	1	102
March							1	2	1				5	15					4	15	1	1	1		3	22			1		9	8	1				22	62	3	1	2		90
April		1					1	5			1		3	9			1		3	12					9	15					6	32		10	3		22	74		10	5		111
May		1						2			3		7	8					8	22			3	4	20	30			6		36	29			7		71	92		3	20		186

TABLE II (Continued)

Month	Nobles						Clergy						Upper Middle						Lower Middle						Worker						No Classification						Totals						Totals for All Categories
	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	N	A	E	S	D	R	
June							2						2	10			2		4	28		1			5	64		1	1	2	5	37		1	7	3	18	139		3	10	5	175
July		1		1	1			11					5	14			3			58			1			83			1			39			1		5	206		1	7		219
August	2	1					3	2					13	3					18	4					24	5					16	3					76	18					94
September		11						7					10	64					15	68	2		3		18	38			3		50	29	1		3		93	217	3		9		322
October	14				7		8	4			1		28	11			4		21	15			2		24	20			6		80	18			11	4	175	68			31	4	278
November	2						11	1					14	8					41	13			5		37	13		1	1		51	30			2		156	65	1		8		230
December	2						2	2					1	4					7	9					11	16					22	8					45	39					84
1795 January													1																								1						1
February	1						1						3	1			1		1	2				6	6	2			1	6	2	3			2	6	14	8			4	18	44
March							1	1						1					1						1	1				2	1					4	3				2	9
April														1			1			2			1		1				1	3	3			1	9	4	3			4	12	23
May														4						5				1	1	4				3	1					2	13				4	19
	26	21		1	11		45	49	16		9	1	138	214	3	5	22	1	180	307	5	10	34	7	230	415	1	7	35	16	354	267	6	22	52	26	973	1,273	32	44	163	51	2,536

PLATE III

PERCENTAGE OF DEATH SENTENCES (APR. 1793-JULY 1794) FOR THE UPPER CLASSES AND THE LOWER CLASSES



time increasing, almost step for step, its severity upon members of the lower classes. Actually the rate of increase was sharper for the lower classes than the upper. Some of the significance of this is lost, however, when it is recalled that the upper classes started from a much higher point and did not have so far to increase before the number of convictions approximated 95 per cent while the convictions for the lower classes in July was 70 per cent, a fall of 5 per cent from its absolute peak in June. These trends would seem to support fairly well a contention that the Tribunal's work was primarily political in nature but sharpened by a sensitivity to the social conflict that may well have not received too conscious a form by June, 1794.

This leaves, however, a question of considerable significance. Was it true that in July, 1794, the Tribunal was shifting its center of gravity; was it becoming less political and more social in its activities; was it, in short, taking a great stride in the direction of the social revolution? Much can be said for this thesis. The activities of the Tribunal suggest such a shift while developments outside the Tribunal speak convincingly of a new departure. It may be seen for instance (Plate I) that in July the nobility was providing 25 per cent of the death sentences which stood well over 900. At this time of frenzied activity the percentage contributed by the nobility more than doubled while that of every other social group except the clergy—always of small consequence—diminished. It is unlikely that this change was the result of fortune; the numbers are too great and the trend too pronounced for that. Almost certainly the tribunal was more consciously sorting its prisoners and giving priority to those who possessed some social distinction and wealth. In this single month in which more than one-third of the total deaths were assessed the levelling down process—the emerging social purpose of the revolution—was moving into prominence at the Tribunal by the cutting off in greater numbers of those heads that stood highest. The chief objection to such an interpretation is obviously the shortness of the period: one swallow does not make a summer nor one month establish the Tribunal as a full fledged instrument of social revolution. Is there evidence that July was intended as the beginning of a long and full harvest?

Good evidence exists for the belief that the trend would have continued had not the temper of the Tribunal, as well as that of the government, been greatly modified by the overthrow of Robespierre and his associates. Had the government continued under the influence then dominant, the social and economic aspects of the revolution would in all probability have become increasingly important. It is evident from the testimony of Fouquier-Tinville and one of the secretaries of the *parquet* at Fouquier-Tinville's trial that the Tribunal was beginning to act in terms of a social and economic program, for it had begun to

concentrate upon nobles and priests while making some efforts to avoid the trial of "cultivateurs."[5]

But the most convincing evidence in favor of the increasing social incidence of the Tribunal's sentences is associated with the establishment and operations of the popular commissions[6] and their apparent preparation of a holocaust of the propertied classes in France. The so-called Ventôse decrees of February 26,[7] and March 13,[8] 1794 (8 and 23 Ventôse) prepared the foundation for the application of the Robespierrean social and economic program by authorizing the establishment of six popular commissions and by charging them with the preparation of a large project for the transfer of wealth from unpatriotic property-holders to deserving *sans-culottes*. This program was to prepare the new social class to which the revolution could be safely entrusted.[9] The installation of the commissions was delayed, but on May 13 the Committees of Public Safety and General Security provided for the formulation of one, and on the following day for another. On May 22, the Committee of Public Safety issued the decree vesting authority in the commissions and imposing certain procedural limitations.[10]

What was provided was in fact a subsidiary judicial committee for the Revolutionary Tribunal. The two commissions were presided over by Trinchard and Subleyras, a former juror and a vice-president respectively of the Revolutionary Tribunal. The commissions were empowered to hold investigations, summon witnesses, issue warrants of arrest, and made recommendations to the two great Committees to free suspects, deport them, or send them before the Revolutionary Tribunal. The decision of deportation or of reference to the Tribunal, if the suspect were found guilty there, was to entail the forfeiture of property. At first the commissions were authorized to examine only those detained in the prisons of Paris, but it was intended eventually to extend the investigations to every commune in France, where lists of suspects were to be prepared in anticipation of the investigations of the commissions.[11]

The results of the work of the commissions were to be submitted for approval to the two great Committees and upon their approval any orders or recommendations would be carried out. According to the testi-

[5] Buchez et Roux, *Histoire parlementaire de la révolution française*, XXIV, 258; XXV, 22-23.

[6] See *supra*, p. 61.

[7] *Moniteur*, February 27, 1794, XIX, 569.

[8] *Ibid.*, March 14, 1794, p. 692.

[9] A. Mathiez, *Girondins et Montagnards* (Paris, 1930), pp. 109-38.

[10] Aulard, *Recueil . . . salut public*, XIII, 483-484; 513; and 665.

[11] Lists were begun in a number of places and sent in on special forms prepared for the occasion. The continuation of the commissions would have resulted in a gigantic screening of the prisons of France under circumstances that would almost inevitably stamp as guilty those not liberated by the commissions.

mony of Fouquier-Tinville, the commissions, whose work had scarcely begun before June 20, had submitted a list to the Committees of Public Safety and General Security and on July 2 and 3 four hundred seventy-eight persons had been certified for the attention of the Tribunal.[12] It seems obvious from this initial performance that, at a conservative estimate, the commissions should have been able to submit from six hundred to nine hundred names per month to the committees—and only two of the six commissions already authorized were in operation. If the influence of Robespierre and his associates and the revolutionary fervor of the members of the Tribunal had continued, it would be difficult to imagine any reluctance on the part of the Tribunal to treat these cases with maximum severity. It seems clear that the Tribunal considered the selective process of the commissions with the subsequent approval by the two great Committees as an assurance of the guilt of those referred to it under the Ventôse decrees. In this instance the real responsibility was located in the Committees with the Tribunal but giving legal validity to their findings and conclusions. This was, of course, in keeping with the trend of affairs that had increasingly emphasized the importance of local hearings and investigations and had ended in the virtual acceptance by the Tribunal of these local findings as the essence of the trial. Those who would assay the guilt or innocence of those sentenced by the Tribunal are confronted, in perhaps a majority of instances, with making some judgment of the work of the local authorities for in these hands the real trial rested. The Tribunal would not now—with the commissions and Committees concerned—reverse this trend and go behind the evidence or accusations submitted to it. It must be admitted, therefore, that a strong presumption exists that the short-run trend of July would have continued into the following months if the prevailing movement had not been weakened by the events of July 28.

It would appear, then, in summary, that while the Tribunal was always disproportionately severe on the upper classes, it acted in its earlier and middle periods through a social bias rather than a social program; but that events in late June and in July were rapidly bringing to a head a social program in which the Tribunal would have participated had not the program been destroyed with the destruction of its originators.

It is also of interest to examine the statistics for those who were sent before the Tribunal but received some treatment other than death. Table II reveals that death sentences were given to slightly over half those referred to the Tribunal. As nearly as can be figured, 2,246 suspects were released without punishment of any sort by the Tribunal. Of these 973 received their freedom without the formality of a trial on an order of *non-lieu* (no grounds for indictment) in cases where the

[12] Buchez et Roux, *op. cit.*, XXXV, 10.

evidence was not sufficient to support the charges; the remainder—1,273—were acquitted by the Tribunal. This is strong evidence of the importance of the local preparation of the case, the preliminary examinations, and in many instances of the judicial discernment of the Tribunal. By the law of 22 Prairial[13] (June 10, 1794) the power to issue an order of *non-lieu* was taken from the public prosecutor and lodged in the Tribunal. Even then the decision of the Tribunal had to be confirmed by both the Committee of Public Safety and the Committee of General Security. The result was a precipitate fall in the number of cases dismissed without trial during June and July. Even in these months about one out of four appearing before the Tribunal was acquitted or received one of the lesser sentences. In addition to the two methods by which the accused could be released without punishment, there were other penalties short of death. The Tribunal issued sentences of deportation, of imprisonment for a specified term of years, and of protective custody in cases where the charges against the suspect could not be substantiated but the liberation of the suspect would, within the opinion of the Tribunal, constitute a danger to the security of France.[14] In fifty-one other cases—for the most part late in the history of the Tribunal—the suspect was referred to other tribunals, usually the criminal tribunals of the departments, for judgment.[15]

A graph of the severity of the Tribunal (see Plate IV, a comparison of death sentences with all other dispositions of cases) shows in an interesting manner the effect of various decrees upon the speed with which the Tribunal worked. The creation of four sections of the Tribunal in September, only two of which were to hear trials, resulted roughly in doubling the number of persons judged. The three-day limit made possible in October, accompanied as it was by an obvious dissatisfaction with the slowness of the Tribunal by the executive Committees and by the Tribunal itself, resulted in a small increase in activity. A rapid rate of increase began in March, 1794, and it is significant that before the law of 22 Prairial the Tribunal was disposing of cases involving five hundred persons a month. In view of this fact it seems altogether likely that the Tribunal, of its own volition, had already begun to use short cuts in procedure that were not legally permissible until after June 10 (22 Prairial). If that were the fact, it would tend to discount the theory that the Tribunal was completely under the domination of the two Committees and more particularly under that of the Committee of Public Safety. It would be sounder to admit the influence of the two Committees but to emphasize the fact that no question of domi-

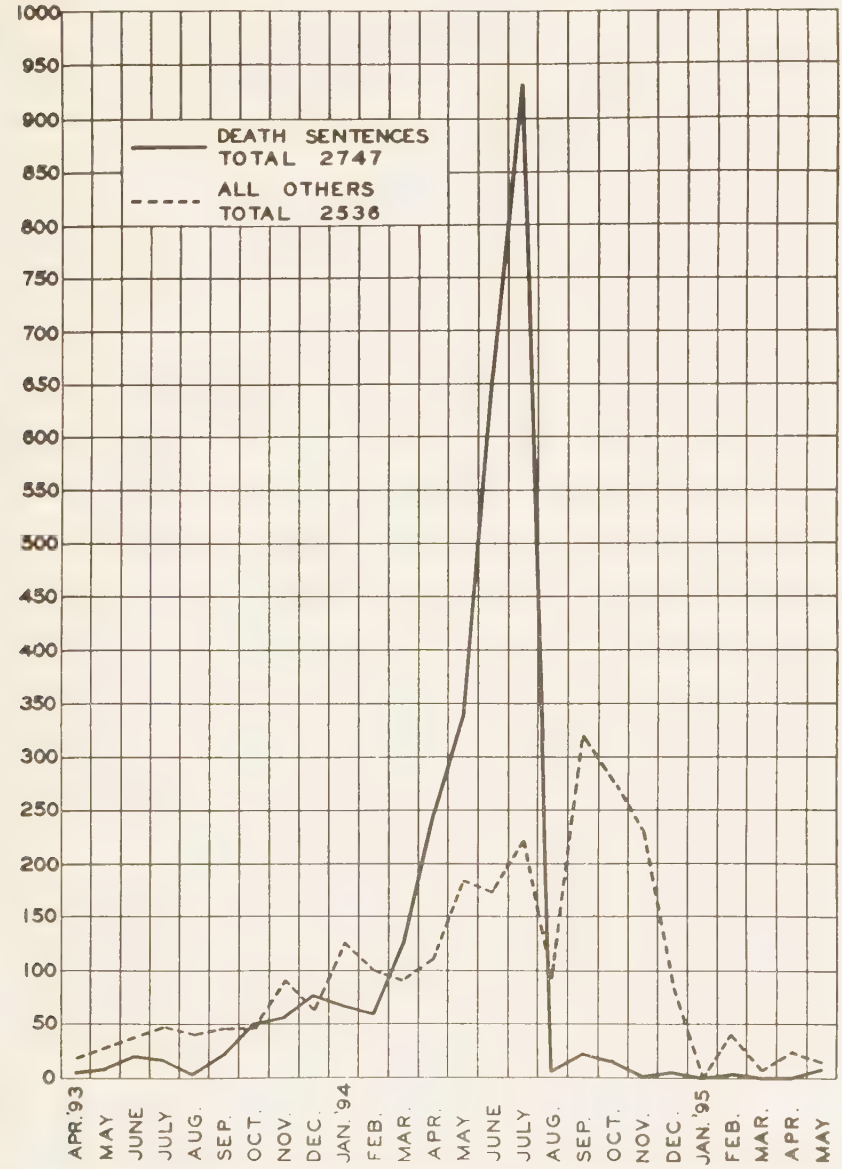
[13] Law of June 10, 1794, article xviii, *Moniteur*, June 12, 1794, XX, 697.

[14] Occasionally the Tribunal placed a person under the jurisdiction of another—usually a kinsman—who became responsible for the conduct of the one thus liberated.

[15] See Table II, pp. 142-143.

PLATE IV

COMPARISON OF DEATH SENTENCES WITH ALL OTHER DISPOSITIONS OF CASES



nation entered into their relations; the Tribunal was of one mind with the Committees concerning the nature of its work. If there was any domination in the full sense of the word, it was the domination of an

idea, for the Tribunal and Committees were equally sensitive to the developing concepts of the revolutionary pattern. Only the crisis of 9 Thermidor broke the harmony of purpose.

It is also interesting to note that during the first year of the Tribunal's operations acquittals and sentences other than death constituted numerically the more important part of its work. The great period for the liberation of suspects, however, followed the events of 9 Thermidor and extended through September, October, and November, 1794. By January, 1795, the continued existence of the Tribunal so far as any punitive measures were concerned rested entirely upon the future fate of Fouquier-Tinville and certain of his stauncher associates. Just as the revolution devoured its children, so the Tribunal devoured those who gave it the most forceful aid in the fulfillment of its revolutionary mission.

In conclusion, an interpretation of the Tribunal as one of several institutions all closely integrated for the purpose of realizing a common purpose must be insisted upon. The Tribunal was meaningless without the Convention, the Committees, and the vast hierarchy of local administrative and judicial officers. Within this complex the Tribunal played a very necessary part; it was an inevitable handmaiden of the revolution and must, in the final analysis, be judged as an institution for the achievement of the revolutionary purpose and not as a court for the administration of law and justice as ordinary social necessities. Within this concept—and later history has attested the inevitable appearance of similar institutions in revolutionary situations—the Tribunal emerges with some pride of place. It and those who served it become repulsive and vicious caricatures only when compared to the better natured and better mannered society of which it was never a part; compared with its own kind the Tribunal becomes something of a model which prevented the bloodletting of the revolution from becoming indiscriminate. Its members, as Trinchard, a former juror and later chairman of one of the popular commissions, argued in his own defense, were not ordinary men (jurors). "They were good *sans-culottes,* they were men of purity, they were men of nature."[16] If the *sans-culotte* nature of the Tribunal is given its full significance, it becomes possible to think of the Tribunal as being a preserver rather than a destroyer of life. For without it there was every possibility that the enforcement of the revolutionary justice would have become a matter for the *sans-culotte* mobs of Paris. It is essential that those who think of the Tribunal only to compare it with what is implied in the phrase "judicial process" should extend their comparison to include what is implied in the term "September massacres."

[16] Buchez et Roux, XXXV, 102.

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